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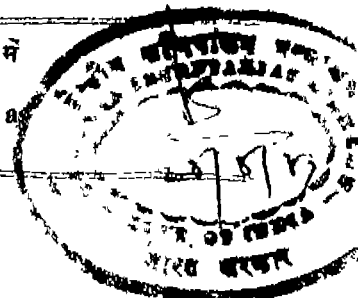
NEW DELHI, SATURDAY, AUGUST 1, 1987/SRAVANA 10, 1909

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)



(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 3 जुलाई, 1987

आयकर

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 3rd July, 1987

INCOME-TAX

का धा. 1940—आयकर अधिनियम, 1961 (1961 का 43) की धारा 193 के परन्तुक के खंड (ii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार एतद्वारा उक्त खंड के प्रयोजनार्थ महानगर टेलिफोन निगम, लि, नई दिल्ली द्वारा जारी किए गए "7 वर्षीय—14% आरक्षित विमोक्ष्य अमरपरिवर्तनीय टेलिफोन बॉन्ड टी-86 श्रृंखला—प्रथम निगम" को विनिर्दिष्ट करती है।

वर्षों कि ऐसे बॉन्ड के अन्तर्गत के मामले में पृष्ठांकित श्रवण वितरण द्वारा उक्त परन्तुक के अन्तर्गत लाभ सभी स्वीकार्य होगा यदि अन्तर्गत उक्त प्रकार के अन्तर्गत और वितरण से 60 दिनों की अवधि के भीतर महानगर टेलिफोन निगम लि, नई दिल्ली का रजिस्टर्ड डाक द्वारा सूचित करे।

[ग 7415 (का से 275/108/86-आ. क. व.)]

बी नागराजन निदेशक

S.O. 1940—In exercise of the powers conferred by clause (ii) of the proviso to Section 193 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the "7-Year-14 per cent Secured Redeemable Non-Convertible Telephone Bonds—T-86 Series—First Issue" issued by the Mahanagar Telephone Nigam Limited, New Delhi for the purpose of the said clause :

Provided that the benefit under the said proviso shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs the Mahanagar Telephone Nigam Limited by registered post within a period of sixty days of the transfer by endorsement and delivery.

[No 7415 (T No 275/108/86-JTB)]

B NAGARAJAN Director

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली 13 जुलाई, 1987

का आ 1941—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के अन्वये दिनांक 30 मई, 1988 तक की श्रद्धा अर्पण के लिए युनाइटेड बैंक आफ इंडिया, कलकत्ता पर उस सीमा तक लागू नहीं होंगे जहां तक कि इनका सम्बन्ध बैंक के रूप में सेमसे शीट मेटल इंडस्ट्रीज लि. में इसके शेयरों की धारिता से है।

[संख्या 15/8/87-बी. ओ. III]

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 13th July, 1987

SO 1941.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to the United Bank of India, Calcutta for a further period till 30th May, 1988 in so far as they relate to its holding of shares of M/s. Bharat Sheet Metal Industries Ltd. pledgee.

[No. 15/8/87-B.O. III]

का आ 1942—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के अन्वये 8 जून, 1988 तक की श्रद्धा अर्पण तक युनाइटेड बैंक आफ इंडिया, कलकत्ता पर उस सीमा तक लागू नहीं होंगे जहां तक इनका सम्बन्ध लूज इलेक्ट्रिकल्स प्रा. लि. के शेयरों की उसकी धारिता से है।

[एफ. सं. 15/9/87-बी ओ -III]

[प्राण नाथ, अवसर मन्त्रि]

SO 1942.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to the United Bank of India, Calcutta for a further period till 8th June, 1988 insofar as they relate to its holding of shares in the Luz Electricals Pvt. Ltd.

[No. 15/9/87-B.O. III]

PRAN NATH, Under Secy.

वाणिज्य मंत्रालय

नई दिल्ली, 24 जुलाई, 1987

आदेश

का आ 1943.—भारत के निर्यात व्यापार के विकास के लिए, भारत सरकार के पूर्व वाणिज्य और नागरिक पूर्ति मंत्रालय की प्रमाधन

साबुन से संबंधित आयात सूचना स. का. आ. 1015, तारीख 19 अप्रैल, 1980 का संशोधन करने के लिए कतिपय प्रस्तावनाएं निर्यात (व्यापारिक निर्यात और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (2) की श्रेष्ठानुसार भारत के राजपत्र, भाग II खंड-3 उपखंड (ii), तारीख 24 जनवरी, 1987 में प्रकाशित भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना स. का. आ. 187, तारीख 24 जनवरी 1987 में प्रकाशित की गई थी;

और उक्त व्यक्तियों से राजपत्र में उक्त आदेश के प्रकाशन के 45 दिन के भीतर उक्त प्रस्तावना की वास्तव आधेय या गुणाव सांगे गए थे जिनके उभरे प्रभावित होने की सम्भावना थी;

और उक्त राजपत्र की प्रतियां, 30 जनवरी, 1987 को जनता की उपलब्ध करा दी गई थी,

और केन्द्रीय सरकार ने प्रस्तावनाओं के संबंध में जनता से प्राप्त आलोचों और सुझावों पर विचार कर लिया है।

अतः निर्यात (व्यापारिक निर्यात और निरीक्षण) अधिनियम, 1963 (1963 का 22) की भाग 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निर्यात निरीक्षण परिषद् में परामर्श करने के पश्चात् अपनी यह राय देने पर कि भारत के निर्यात व्यापार के लिए ऐसा करना आवश्यक और समीचीन है, भारत सरकार के वाणिज्य मंत्रालय के आदेश स. का. आ. 1015 तारीख 19 अप्रैल, 1980 में निम्नलिखित संशोधन करती है अर्थात् —

उपाखण्ड

प्रमाधन साबुन के लिए न्यूनतम विनिर्देश

1. प्रमाधन साबुन को दो प्रकार से वर्गीकृत किया जाएगा अर्थात् साधारण प्रयोजन के लिए साबुन तथा विशेष प्रयोजन के लिए साबुन। साधारण प्रयोजन के लिए साबुन की विशेषताओं के आधार पर श्रेणी-I, श्रेणी-II तथा श्रेणी-III के रूप में श्रेणीबद्ध किया जाएगा। पारदर्शी/अन्वीरित साबुन, कार्बोनिज साबुन, शीघ्रघुलन साबुन, आयुर्वेदिक साबुन और बच्चों के लिए साबुन विशेष प्रयोजन के लिए साबुन होंगे।

2. साबुन मजबूत, विशिष्ट, गंध, अच्छी मुकाई तथा आग देने वाली विशेषताओं वाले होंगे। साबुनों में रंगीन पदार्थ, परिरक्षक, शोधक, अन्यधिक वसाय पदार्थ आदि होंगे, जो साबुन के प्रकार पर निर्भर होंगे, जो त्वचा के लिए हानिरहित होगा। साबुन का आकार, आकृति, रंग तथा भार जैसा और बिक्री के बीच हुए करार के अनुसार होगा।

3. प्रमाधन साबुन नीचे की सारणी में दी गई अपेक्षाओं के अनुरूप होगा।

4. वैकिंग, निर्यात निरीक्षण परिषद् द्वारा इस प्रयोजन के लिए अधिकृत मार्गदर्शन के अनुसार की जाएगी।

5. प्रमाधन साबुन के परेण पर निम्नलिखित चिन्ह होने होंगे :—

- (i) विनिर्माता का नाम ;
- (ii) ब्रांड नाम और रजिस्ट्रीकृत व्यापार चिन्ह, यदि कोई है ;
- (iii) साबुन का प्रकार और श्रेणी,
- (iv) वैकिंग के समय शुद्ध भाग ,
- (v) बैच नम्बर या लॉट संख्या, कोड में या अन्यथा,
- (vi) विनिर्माण का वर्ष और मास, और
- (vii) विशेष सघटक, यदि कोई हो।

उक्त आदेश में—

(1) खंड 1 के उपखंड (3) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्—

“(3)(क) राष्ट्रीय और अंतर्राष्ट्रीय मानकों को, और

(ख) इस आदेश के उपबंध के अनुसार लागू न्यूनतम विनिर्देशों के अधीन रहते हुए, केता और विक्रेता के बीच पाए संविदात्मक विनिर्देशों को, ऐसे प्रसाधन सामानों के लिए मानक विनिर्देशों के रूप में मान्यता देती है,

टिप्पण—सर्विदा के अनुमानित नमूने पर आधारित होने की दशा में निर्यातकर्ता अधिकरण को उसकी लिखित विशेषताएं देगा।

(2) खंड-2 के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात्—

“(2) इस आदेश की कोई भी बात भावी श्रेताओं को भूमि, समुद्र या वायु मार्ग द्वारा प्रसाधन सामान के उन वास्तविक

नमूनों के निर्यात का लागू नहीं होगी, परन्तु यह तब कि ऐसे नमूनों का पोत पर्यन्त निर्यातक मूल्य 500 रु. से अधिक नहीं होगा।”

(3) खंड-3 के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्—

“(3) इस आदेश में ‘प्रसाधन सामान’ से पूरी तरह सामूचीकृत भिल द्वारा पैकार किया गया और या ममागृहित और पिता हुआ सफेद या रंगी, सुगंधित तथा अमृगंधित मजबूत और चिकनी अपारदर्शी या पारदर्शी टिकियो के रूप में परिरक्षकों सहित तथा उनके बिना श्रौषधि, त्वचा के लिए हानि रहित प्रसाधन सामान अभिप्रेत है, जिसमें अच्छी सफाई तथा लाभ देने वाली विशेषताएं हों।”

(4) खंड-4 के पश्चात् निम्नलिखित उपबंध और मागणी अंतः-स्वर्गित की जाएगी, अर्थात्

मागणी

क्रम सं. विशेषताएं	साधारण प्रयोजन					विशेष प्रयोजन के लिए सामान			
	श्रेणी 1	श्रेणी 2	श्रेणी 3	पारदर्शी श्रेणी-I	निसरीन श्रेणी-2	कार्बोनिक्, श्रौषधियुक्त	आयुर्वेदिक	बच्चों के लिए सामान	
	प्रतिशत	प्रतिशत	प्रतिशत	प्रतिशत	प्रतिशत	प्रतिशत	प्रतिशत	प्रतिशत	प्रतिशत
1. कुल वसा पदार्थ (न्यूनतम)	76.0	70.0	60.0	70.0	70.0	60.0	78.0	63.0	78.0
2. कार्बोनिक् भार से मुक्त (अधिकतम)	0.05	0.05	0.05	0.05	0.05	0.05	0.10	0.10	0.03
3. रोजिन अम्ल (अधिकतम)	3.0	0.7	7.0	1.0	3.0	5.0	3.0	3.0	कुछ नहीं
4. अल्कोहल में घुलनशील पदार्थ (अधिकतम)	2.5	5.0	0.0	2.5	7.0	6.0	3.0	5.0	2.0
5. क्लोराइड (अधिकतम)	1.5	1.3	1.5	0.8	1.0	1.0	1.5	1.5	1.0

टिप्पण:— 1. निसरीन सामान के लिए, न्यूनतम निसरीन की प्रतिशतता श्रेणी-1 के लिए 5 प्रतिशत तथा श्रेणी-II के लिए 2 प्रतिशत होगी।

2. कार्बोनिक् सामान के लिए केसिलिक अम्ल प्रतिशतता अधिकतम 4 प्रतिशत से अधिक नहीं होगी।

3. श्रौषधियुक्त सामान के लिए मरक्युरिक आयोडाइड की प्रतिशतता अधिकतम 1.1 प्रतिशत से अधिक नहीं होगी।

4. बच्चों के लिए सामान:—

(क) कार्बोनिक् अम्ल, रोजिन तथा ककरी से मुक्त होगी।

(ख) मुक्त कार्बोनिट अम्ल अधिकतम 0.5 प्रतिशत से अधिक नहीं होगा।

(ग) लोहा अंग तथा नांबा अंग क्रमशः 10 पीपीएम तथा 3 पीपीएम से अधिक नहीं होगा।

[फाइल सं. 6(18)/86-ई. आई एण्ड ई पी.]

एन. एम. डी. एन. निदेशक

MINISTRY OF COMMERCE

New Delhi, the 24th July, 1987

ORDER

S.O. 1943—Whereas for the development of the export trade of India certain proposals for amending the Notification of the Government of India in the Late Ministry of Commerce and Civil Supplies No SO 4015, dated 19th April, 1980 relating to Toilet Soaps, were published as required by sub-rule (2) of rule 11 of the Export (Quality Control and

Inspection Rules, 1964 under the Notification of the Government of India in the Ministry of Commerce No SO 187, dated the 24th January, 1987 published in the Gazette of India, Part-II Section 3, Sub-section (ii), dated the 24th January, 1987.

And whereas the objections or suggestions with respect to the said proposal were invited from any person likely to be affected thereby within 45 days of the publication of the said Order in the Official Gazette.

And whereas the copies of the said Gazette were made available to the public on 30th January, 1987

In the said Order—

(1) In clause 1 for sub-clause (3), the following shall be substituted, namely :

“(3) recognises—

(a) national and international standards, and

(b) contractual specifications as agreed to between the buyer and the seller, subject to the minimum specifications as applicable as per Annexure to this Order, as the standard specification for such toilet soaps;

Note : In the event of contract being based on the approved sample the exporter shall furnish written down characteristics of the same to the Agency".

(2) For clause 2, the following shall be substituted, namely :—

“(2) Nothing in this Order shall apply to the export by land, sea or air of bonafide trade samples of toilet soaps to the prospective buyers, provided that free on board value of such samples do not exceed Rs. 500.”

(3) For clause 3, the following shall be substituted namely :—

- "(3). In this Order, toilet soaps shall mean toilet soaps thoroughly saponified, milled and or homogenized or ploded, white or coloured, perfumed or unperfumed, opaque or transparent cakes of firm and smooth texture with or without preservatives and medicaments, non-injurious to skin having good cleaning and lathering properties."

(4) After clause 4, the following Annexure and Table shall be inserted, namely :—

TABLE

S.No.	Characteristics	General Purposes			Special purpose soaps				
		Gr. I.	Gr. II	Gr. III	Trans par- ent Gr. I.	Glycerine/ Gr. II	Carbolic (Medicated)	Aurvedic	Baby soap
1.	Total fatty matter (Min)	76.0%	70.0%	60.0%	70.0%	60.0%	60.0%	65.0%	78.0%
2.	Free caustic alkali (max)	0.05%	0.05%	0.05%	0.05%	0.05%	0.5%	0.10%	0.03%
3.	Rosm acids (Max.)	3.0%	7.0%	7.0%	1.0%	3.0%	5.0%	3.0%	Nd
4.	Matter insoluble in alcohol 5(Max.)	2.5%	5.0%	6.0%	2.5%	7.0%	6.0%	5.0%	2.0%
5.	Chlordides (Max.)	1.5%	1.5%	.5%	0.8%	1.8%	1.0%	1.5%	1.0%

Notes ; 1. * For glycerine soaps, the minimum glycerol percentage shall be 5% for Gr. I. and 2% for Gr. II.

2. (a) For carbolic soaps, the cresylic acid percentage shall not exceed 4 % Max.

3. ~~For medicated soaps, mercuric iodide~~ percentage shall not exceed 1 1/2% max.

4.44 For baby soaps —

(a) shall be free from carbonic acid, resin and grt

(b) free carbonate alkali shall not exceed 0.5% max.

(c) Iron content and copper content shall not exceed 10 ppm and 3 ppm respectively.

(संयुक्त मुख्य नियंत्रक, आयात एवं निर्यात का कार्यालय)

कलकत्ता, 5 मई, 1987

रद्द आदेश संख्या 1/1987-88

का.आ. 1944.-1 जबकि महाशय ट्रैक्टरम इंडिया लि. 1, तारा ताला रोड, कलकत्ता-24 को विशेष इम्प्रेस्ट अनुज्ञापत्र सं. पी./एल./3142573/सी./XX/98/सी./86 दिनांक 10-1-86 को, 3, 80, 15, 977/- रुपये का अंडर केरिज उपकरण तथा डेक उपकरण आयात के लिए अनुमोदन किया गया।

2. जबकि महाशय ट्रैक्टरम इंडिया लि. कलकत्ता ने आयात-निर्यात प्रणाली 1985-88 को हस्त पुस्तिका के परिशिष्ट-II के अनुसार हलफनामा दाखिल किया है जिसमें उन्होंने कहा कि सीमा-शुल्क उद्देश्य प्रति की अनुज्ञापत्र सं. पी./एल./3142573/सी. तारीख 10-1-86, सीमा-शुल्क अधिगारी सीमा-शुल्क हाउस के पास पंजीकृत करने के बाद खो गई है तथा इसे 3,62,20,088 रुपये तक आंशिक उपयोग किया गया था। उन्होंने आगे बचन दिया है कि बाद में सीमा-शुल्क उद्देश्य प्रति (मिलने पर या डूब निकालने पर बिना उपयोग किये हो अनुज्ञापत्र को इस कार्यालय को वापस कर देंगे।

3. जबकि महाशय ट्रैक्टरम इंडिया लि. कलकत्ता ने सीमा-शुल्क उद्देश्य प्रति की अनुज्ञापत्र उक्त अनुज्ञापत्र को रद्द करके अनुज्ञापत्र के बाकी मुख्य उपयोग करने की योजना की।

मुझे मतोप है कि सीमा-शुल्क प्रति की उक्त अनुज्ञापत्र सीमा-शुल्क अधिकारी के पास पंजीकृत तथा 3,62,20,088/- रुपये तक आंशिक उपयोग करने के बाद खो गई है।

5 आयात (नियंत्रण) अधिनियम, 1955 के संशोधित खंड 9(1) (घ) के अन्तर्गत मैं अधिकार, जो मुझे प्रदत्त किया गया है, का प्रयोग करते हुए सीमा-शुल्क उद्देश्य की अनुज्ञापत्र की मूल प्रति सं. पी./एल./3142573/सी. तारीख 10-1-86 को आंशिक रद्द करते हुए बाकी जो 18,25,889/- रुपये की निर्गम का आदेश देता हूँ।

म. म. डे., उप मुख्य नियंत्रक, आयात एवं निर्यात

विषय:- अनुज्ञापत्र सं. पी./एल./3142573/सी. तारीख 10-1-86 को खोई हुई सीमा-शुल्क उद्देश्य प्रति की अनुज्ञापत्र का निर्गम।

अनुज्ञापत्र सं.	तारीख	माल का विवरण
डी. 2168616	07/05/1987	अंडरकेरिज उपकरण तथा डेक उपकरण (केवल सीमा-शुल्क उद्देश्य प्रति)

[1/1987-88]

एम. के. धोंग, सहायक मुख्य नियंत्रक

आयात एवं निर्यात

संयुक्त मुख्य नियंत्रक, आयात एवं निर्यात

(Office of the Jt. Chief Controller of Imports and Exports)

Calcutta, the 5th May, 1987

CANCELLATION ORDER NO. 1/1987-88

S.O. 1944.—It Whereas M/s. Tractors India Ltd., 1, Tara-tolla Road, Calcutta-24 were granted a Special Imprest Licence No. P/L/3142573/C, XX/98/C, 86 dated 10th January, 1986 for import of Under carriages Equipment and Deck Equipment for Rs 3,80,45,977.

2. Whereas M/s. Tractors India Ltd., Calcutta has now filed an Affidavit in terms of Appx. II-E of the Hand Book of Import-Export Procedures for 1985-88, wherein they have stated that the Customs Purposes Copy of Lic. No. P/L/3142573/C dated 10th January, 1986 have been lost after having been registered with L.U.D. (Customs House) and utilised partly to the extent of Rs. 3,62,20,088. They have further undertaken to return the original licence (Customs Purposes copy) if found/traced out at a later date, without utilisation of the same to this licensing office.

3. Whereas M/s. Tractors India Ltd., Calcutta, have since requested for issue of duplicate Customs Purposes copy in cancellation of the said licence for utilisation for the balance value of the licence.

4. I am satisfied that the Customs purposes Copy of the said licence has been lost after having been registered with Customs Authority and utilised to the extent of Rs. 3,62,20,088.

5. In exercise of the power conferred on me under clause 9(1)(d) of the Imports (Control) Order, 1955, as amended from time to time, I hereby cancel partly the said original Customs Purposes Copy of the licence No. P/L/3142573/C dated 10th January, 1986 for the balance amount of Rs. 18,25,889.

M. M. DE, Dy. Chief Controller of Imports & Exports

Subject :- Issue of duplicate licence (Customs Purposes Copy) against lost Customs Purposes copy of Lic.No.P/L/3142573/C, dtd. 10-1-86.

Licence No.	Date	Description of goods
D-2468618 (CUSTOMS PURPOSES COPY ONLY)	07/05/1987	UNDERCARRIAGES EQUIPMENT AND DECK EQUIPMENT.

DUPLICATE LICENCE IS ISSUED FOR THE BALANCE VALUE OF Rs. 18,25,889/-.

[1/1987-88]

S.K.Ghosh, Asstt. Chief Controller of Imports and Exports, for Jt. Chief Controller of Imports and Exports.

उद्योग मंत्रालय

(रसायन और पेट्रो-रसायन विभाग)

नई दिल्ली, 8 जुलाई, 1987

का. आ. 1945 :- केन्द्रीय सरकार, राजभाषा (मय के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसार मे इश्टवत इन गण्ड फार्मास्यूटिकल्स लि. वीरधर, अधिवेश (भारत सरकार का उपक्रम) को जिसके 80% कर्मचारीबुन्द ने हिन्दी का कार्यधान ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

सं. ई. 11012/2/87-हिन्दी

डी ओ मैन्दीरस्ता, अवर गुपिब

MINISTRY OF INDUSTRY

(Department of Chemicals & Petrochemicals)

New Delhi the 8th July 1987

S.O. 1945.—In pursuance of sub rule (4) of rule 10 of the Official Languages (Use for official purposes) of the

Union) Rules, 1976, the Central Government hereby notifies the Indian Drugs & Pharmaceuticals Limited, Virbhadra, Kishikesh (A Govt. of India Undertaking) the 80 per cent staff whereof have acquired a working knowledge of Hindi.

[No. E-11012(2)/87-Hindi]

D. V. MENDIRAITA, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 9 जुलाई, 1987

का.आ. 1946—केंद्रीय सरकार, भारतीय चिकित्सा केंद्रीय परिषद अधिनियम, 1970 (1970 का 48) की धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तियाँ का प्रयोग करते हुए, भारतीय चिकित्सा केंद्रीय परिषद से परामर्श करने के पश्चात् उक्त अधिनियम की दूसरी अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अनुसूची के भाग 1 में, हिमाचल प्रदेश विश्वविद्यालय, शिमला से संबंधित क्रम संख्या 248 के सामने स्तम्भ 2, 3 और 4 में विद्यमान प्रविष्टियों के पश्चात् क्रमशः निम्नलिखित और प्रविष्टियाँ अन्तःस्थापित की जाएंगी, अर्थात्:—

1	2	3	4
“हिमाचल प्रदेश विश्वविद्यालय शिमला	“आयुर्वेदिक औषध और शल्य चिकित्सा और आयुर्वेदाचार्य” से स्नातक	जी. ए. एम. एस. केवल 1886 तक परीक्षा करके प्राप्त	उत्तीर्ण

[संख्या बी. 26015/9/86 ए.ई.]

द्वारा एम. माथुर, दवर सचिव

टिप्पणी: भारतीय चिकित्सा केंद्रीय परिषद अधिनियम, 1970 (1970 का 48) की दूसरी अनुसूची में पश्चात्कर्त संशोधन निम्नलिखित द्वारा किए गए:

1. का.आ. सं. 4068 तारीख 30 नवम्बर, 1979
2. का.आ. सं. 2635 तारीख 18 सितम्बर, 1980
3. का.आ. सं. 2313, तारीख 20 अगस्त, 1981
4. का.आ. सं. 2314, तारीख 22 अगस्त, 1981
5. का.आ. सं. 137, तारीख 24 दिसम्बर, 1981
6. का.आ. सं. 638, तारीख 25 जनवरी, 1982
7. का.आ. सं. 661 तारीख 2 फरवरी, 1982
8. का.आ. सं. 973, तारीख 20 फरवरी, 1982
9. का.आ. सं. 354 (अ) तारीख 6 मई, 1983
10. का.आ. सं. 3550, तारीख 5 सितम्बर, 1983
11. का.आ. सं. 804(ग), तारीख 11 नवम्बर, 1983
12. का.आ. सं. 462(अ), तारीख 23 जून, 1984
13. का.आ. सं. 1911, तारीख 17 अप्रैल, 1985
14. का.आ. सं. 2745, तारीख 29, मई, 1985
15. का.आ. सं. 3404, तारीख 5 जुलाई, 1985
16. का.आ. सं. 4057 तारीख 14 अगस्त, 1985
17. का.आ. सं. 5603 तारीख 2 दिसम्बर, 1985
18. का.आ. सं. 5671, तारीख 5 दिसम्बर, 1985
19. का.आ. सं. 842 तारीख 17 फरवरी, 1986
20. का.आ. सं. 1832 तारीख 16 अप्रैल, 1986
21. का.आ. सं. 627, तारीख 2 फरवरी, 1987
22. का.आ. सं. 760 तारीख 25 फरवरी, 1987
23. का.आ. सं. 1030 तारीख 30 मार्च, 1987

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 9th July, 1987

S.O. 1946—In exercise of the powers conferred by sub-section (2) of section 14 of the Indian Medicine Central Council Act, 1970 (48 of 1970), the Central Government, after consulting the Central Council of Indian Medicine, hereby makes the following further amendment in the Second Schedule to the said Act, namely:—

In Part I of the said Schedule against serial number 24C relating to the Himachal Pradesh University, Simla, under columns 2, 3 and 4, after the existing entries, the following further entries shall respectively be inserted, namely:—

1	2	3	4
“Himachal Pradesh University, Simla	“Graduate of Ayurvedic Medicine and Surgery Ayurveda-charya”	G.A.M.S.	Degree obtained by passing examination upto 1986 only”

[No. V. 26015/9/86—AE]

R. S. MATHUR, Under Secy.

NOTE: The Second Schedule to the Indian Medicine Central Council Act, 1970 (48 of 1970) has been subsequently amended, vide:—

- (1) S.O. No. 4068, dated the 30th November, 1979.
- (2) S.O. No. 2635, dated the 18th September, 1980.
- (3) S.O. No. 2313, dated the 20th August, 1981.
- (4) S.O. No. 2314, dated the 22nd August, 1981.
- (5) S.O. No. 137, dated the 24th December, 1981.
- (6) S.O. No. 638, dated the 25th January, 1982.
- (7) S.O. No. 661, dated the 2nd February, 1982.
- (8) S.O. No. 973, dated the 20th February, 1982.
- (9) S.O. No. 354 (E), dated the 6th May, 1983.
- (10) S.O. No. 3550, dated the 5th September, 1983.
- (11) S.O. No. 804(C), dated the 11th November, 1983.
- (12) S.O. No. 462(E), dated the 23rd June, 1984.
- (13) S.O. No. 1911, dated the 17th April, 1985.
- (14) S.O. No. 2745, dated the 29th May, 1985.
- (15) S.O. No. 3404, dated the 5th July, 1985.
- (16) S.O. No. 4057, dated the 14th August, 1985.
- (17) S.O. No. 5603, dated the 2nd December, 1985.
- (18) S.O. No. 5671, dated the 5th December, 1985.
- (19) S.O. No. 832, dated the 17th February, 1986.
- (20) S.O. No. 1832, dated the 16th April, 1986.
- (21) S.O. No. 627, dated the 2nd February, 1987.
- (22) S.O. No. 760, dated the 25th February, 1987.
- (23) S.O. No. 1030, dated the 30th March, 1987.

(स्वास्थ्य विभाग)

नई दिल्ली, 17 जुलाई 1987

का.आ. 1947—भारतीय आयुर्विज्ञान परिषद अधिनियम 1956 (1956 का 102) की धारा 3 की उपधारा (1) क खण्ड (क) के उपबन्ध के अनुसरण में और यंत्रणा सरकार के परामर्श से केंद्रीय सरकार ने डा. ओ. पी. गुप्ता, निदेशक, स्वास्थ्य और चिकित्सा सेवा (चिकित्सा शिक्षा) को इस अधिसूचना के जारी किए जाने की तारीख से भारतीय आयुर्विज्ञान परिषद का अध्यक्ष नाम निर्दिष्ट किया है।

New Delhi, the 20th July, 1987

ORDER

S. O. 1948.—Whereas by the notification of the Government of India in the Ministry of Health No. 16-30/61-Mt, dated the 26-7-1962 the Central Government has directed that the medical qualification "M.D. University of Oklahoma (U.S.A)" shall be a recognised Medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956).

And Whereas Dr. Morgan Troy Olen Jr. who possesses said qualification is for the time being attached to the Christian Hospital in Kasganj (Etah) Uttar Pradesh for the purposes of charitable work;

Now Therefore, in pursuance of clause (e) of the proviso to sub-section (1) of Section 14 of the said Act, the Central Government hereby specifies—

(i) a further period upto two years or

(ii) the period during which Dr. Morgan Troy

Olen Jr. is attached to the said Christian Hospital in Kasganj (Etah) Uttar Pradesh whichever is less as the period to which the medical practice by the aforesaid doctor shall be limited.

[No. V. 11016/12/84-ME(P)]

R SRINIVASAN, Under Secy.

शहरी विकास मंत्रालय

नई दिल्ली, 7 जुलाई, 1987

का. भा. 1949.—केन्द्रीय सरकार भारत के राजपत्र, दिनांक 13 मार्च, 1976 (का. भा. 1053) की अधिसूचना का भागत. उपांतर करते हुए और सरकारी स्थान (अप्राधिकृत अधिभोगियों की देखरेखी) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्न मारणी के स्तम्भ (1) में उल्लिखित अधिकारों को सरकार के राजपत्रित अधिकारियों की पक्ति के समतुल्य अधिकारों होने के नाते, उक्त अधिनियम, प्रयोजनों के लिए मम्दा अधिकारी नियुक्त करती है और यह भी निदेश देती है कि उक्त अधिकारी उक्त मारणी के स्तम्भ (2) में विनिर्दिष्ट सरकारी स्थानों के संबंध में अपनी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम के द्वारा या उसके अधीन सम्पदा अधिकारों को प्रबल शक्तियों का प्रयोग और अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

अधिकारी का पदाभिधान	सरकारी स्थानों के पर्व और अधिकारिता की स्थानीय सीमाएं
1	2
प्रबन्धक,	नव राज्य क्षेत्र दिल्ली स्थित
भारत सरकार मुद्रणालय,	प्रबन्धक भारत सरकार मुद्रणालय
(लेटर प्रैस यूनिट),	(लेटर प्रैस यूनिट) मिन्दो रोड, नई दिल्ली
मिन्दो रोड, नई दिल्ली	के 'प्रशासनिक नियंत्रणाधीन सरकारी
	स्थान, जिनमें भूमि और भवन भी
	सन्निहित हैं।

[का. भा. नं. 70/(2)/86-ए-5]

नत्सु मिह, अवर सचिव

धन: अब उक्त अधिनियम की धारा 3 की उपधारा (1) के अनुसूचना में केन्द्रीय सरकार भारत सरकार के भूतपूर्व स्वास्थ्य मंत्रालय की अधिसूचना संख्या का. भा. 138 (संख्या 5-13/59-एम. आई.) या 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है अर्थात्

उक्त अधिसूचना में "धारा-3 की उपधारा (1) के खण्ड (क) के अधीन" के निम्नलिखित शीर्ष के अधीन नम संख्यांक 14 के सामने निम्नलिखित विविधता रखी जायेगी अर्थात्—

डा ओ पी. गुप्ता निदेशक, स्वास्थ्य और चिकित्सा सेवा चिकित्सा शिक्षा, गांधीनगर

[संख्या बी-11013/11/87—एम ई (पी)]

(Department of Health)

New Delhi, the 17th July, 1987

S.O. 1947.—Whereas in pursuance of the provision of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Gujarat have nominated Dr. O. P. Gupta, Director of Health and Medical Service (Medical Education), to be a member of the Medical Council of India with effect from the date of issue of this Notification.

Now, therefore, in pursuance of sub-section (1) of section of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Health, No. O. 138 (No. 5-13/59-MI), dated the 9th January, 1960, namely—

In the said notification, under the heading "Nominated for clause (a) of sub-section (1) of section 3" against No. 14, the following entries may be inserted namely:—

14. Dr. O. P. Gupta,
Director of Health & Medical Service,
Medical Education,
Gandhinagar.

[No. V. 11013/11/87-ME(P)]

नई दिल्ली, 20 जुलाई, 1987

आदेश

का. भा. 1948.—केन्द्रीय सरकार ने भारत सरकार के स्वास्थ्य मंत्रालय की अधिसूचना सं. 16-30/61 एम. आई. तारीख 26-7-1982 द्वारा निदेश दिया है कि "एम. डी. ओकलहाम विश्वविद्यालय में, 'म' चिकित्सा अर्थात्, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजनार्थ मान्यताप्राप्त चिकित्सा सेवा होगी;

और डा. मोर्गेन ट्रोयोलन जूनियर जो उक्त अर्हता रखते हैं, तत्समय कार्य को प्रयोजनार्थ क्रिश्चियन अस्पताल, कामगंज (एटा) उत्तर प्रदेश में संलग्न है;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 14 की उपधारा (1) के परन्तुक के खण्ड (ग) के अनुसूचना में

(1) दो वर्ष तक की और अवधि को या

(2) ऐसी अवधि को, जिसके दौरान डा. मोर्गेन ट्रोयोलन जूनियर उक्त क्रिश्चियन अस्पताल, कामगंज (एटा) उत्तर प्रदेश में सम्बद्ध है इसमें या जो भी कम है, ऐसी अवधि के रूप में विनिर्दिष्ट करती है, जिस तक पूर्वाक्त डाक्टर का चिकित्सा व्यावसाय सीमित होगा।

[सं. बी.-11016/12/84 एम. ई. (पी)]

आर श्रीनिवासन, अवर सचिव (एम ई.)

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 7th July, 1987

S.O. 1919 — In partial modification of notification dated the 28th February, 1976 (S.O. 1053) published in the Gazette of India, dated the 13th March, 1976 and in exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below being and officer equivalent to the rank of Gazetted Officers of the Government to be Estate Officers for the purposes of the said Act and further directs that the said officer shall exercise the powers conferred and perform the duties imposed, on Estate Officers, by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

THE TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Manager, Government of India Press (Letter-Press Unit), Minto Road, New Delhi	Public premises including land and Buildings under the administrative control of the Manager, Government of India Press (Letter Press Unit), Minto Road, New Delhi, situated in the Union Territory of Delhi

[F. No. 70(2)/86A-5]
NATTHU SINGH Under Secy
(उपसंपदा निदेशालय)

नई दिल्ली, 15 जुलाई, 1987

का. प्रा. 1950 — केन्द्रीय सरकार, सरकारी स्थान (प्रसाधिकृत अधिभोगियों की बखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे सारणी के स्तंभ (1) में उल्लिखित अधिकारी को, जो सरकार का राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है, और साथ ही निर्देश देती है कि उक्त अधिकारी उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट सरकारी स्थानों की बाबत अपनी अधिकारिता की सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारों को प्रदत्त शक्तियों का प्रयोग करेगा, और अधिनियम बर्तक्यों का पालन करेगा।

सारणी

अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग और उसकी अधिकारिता स्थानीय सीमाएं
------------------	--

1	2
महापंचाङ्गीनियर, हैदराबाद केन्द्रीय उप प्रभाग III/I, हैदराबाद केन्द्रीय प्रभाग III के. लो. नि. वि. हैदराबाद	हैदराबाद केन्द्रीय मन्त्रालय, के. लो. नि. वि. हैदराबाद और संपदा निदेशालय, नई दिल्ली तथा हैदराबाद शहरी संयुक्त के या उनके द्वारा पट्टे पर लिए गए या उनके द्वारा निम्न अध्याधिकृत परिसर और जो उनके प्रशासनिक नियंत्रण में रहे गए हैं

[F. नं. 21012/10/87-ने.वि.-IV]

बी. एस. रामन, उपसंपदा निदेशक

(Directorate of Estates)

New Delhi, the 15th July, 1987

S.O. 1950 — In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being gazetted officer of Government to be Estate Officer for the purpose of the said Act, and further directs that the said officer shall exercise the powers conferred, and perform the duties imposed on the Estate Officer by or under the said Act within the limits of his jurisdiction in respect of the Public Premises specified in column (2) of the said Table.

THE TABLE

Designation of the officer	Categories of public premises and local limits of his jurisdiction
1	2
Assistant Engineer, Hyderabad Central Sub-Division No. III/I Hyderabad Central Division III, C.P.W.D. Hyderabad.	Premises belonging to or taken on lease or requisitioned by or on behalf of Hyderabad Central Circle, CPWD, Hyderabad and Directorate of Estates, New Delhi and located within Hyderabad Urban Agglomeration, and which are placed under his administrative control.

[F. No. 21012/10/87-Pol. IV]
V.S. RAMAN, Dy Director of Estates

नगर विमानन संज्ञालय

नई दिल्ली 17 जुलाई, 1987

का प्रा 1951 — राष्ट्रीय विमानपत्तन प्राधिकरण अधिनियम, 1985 (1985 का 64) के खंड 3 के उपखंड-3 द्वारा प्रदत्त शक्तियों का उपयोग करते हुए, केन्द्रीय सरकार, थियोडियर बी. एस. जोशी (मेवा-निवृत्त) को राष्ट्रीय विमानपत्तन प्राधिकरण में 4000-125-4500 रुपए के अनुसूची "ख" स्तरमान में, उनके द्वारा पद का कार्यभार संभालने की तारीख से तीन वर्ष की अवधि के लिए पूर्णकालिक सदस्य (कार्मिक एवं प्रशासन) के रूप में नियुक्त करती है।

[संख्या ए-11013/3/87-एन.ए.ए.]

जे. आर. नागपाल, अवर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 17th July, 1987.

S.O. 1951.—In exercise of powers conferred by sub-section 3 of Section 3 of the National Airports Authority Act, 1985 (64 of 1985), the Central Government hereby appoints Bng. B. S. Joshi (Retd.) as a whole-time Member (Personnel & Administration) in the National Airports Authority in Schedule 'B' scale of pay of Rs. 4000-125-4500 for a period of three years from the date he assumes charge of the post.

[No. A. 11013/3/87-NAA]

I. R. NAGPAL, Under Secy.

जल मूल परिवहन मंत्रालय

(परिवहन पत्र)

नई दिल्ली, 16 जुलाई, 1987

का. प्रा. 1952 :—चूंकि भारत के राजपत्र के कलाधारण संस्करण के भाग II, खंड 3, उप-खंड, (ii), दिनांक 1 नवम्बर, 1985 में प्रकाशित भारत सरकार के भूतपूर्व परिवहन मंत्रालय (जल-मूल परिवहन विभाग) की अधिसूचना सं. का. प्रा. 800(अ), दिनांक 1 नवम्बर, 1985 (जिसका कि इसके बाद उक्त अधिसूचना के रूप में उल्लेख किया गया है) के माध्यम से डाक वर्कर्स और नौवहन कम्पनियों के एम्प्लायर्स का प्रतिनिधित्व करने वाले सदस्य के रूप में डाक वर्कर्स सलाहकार समिति के सदस्य के तौर पर श्री ए. कमलसेकरण को नियुक्त किया गया था, और चूंकि मद्रास स्टेवोरेस एसोसिएशन ने श्री ए. कमलसेकरण के स्थान पर श्री सी. वी. मुरुगेशन को नामित कर दिया है

अतः अब केन्द्रीय सरकार डाक वर्कर्स सलाहकार समिति नियम, 1962 के नियम 3 के उप-नियम (2) तथा नियम 6 के उपनियम (1) के तहत पञ्चम के साथ पठित डाक वर्कर्स (रोजगार का विनियम) अधिनियम, 1948 (1948 का 9) की धारा 5 के उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, एकद्वारा श्री ए. कमलसेकरण के स्थान पर श्री सी. वी. मुरुगेशन को डाक वर्कर्स सलाहकार समिति का सदस्य नियुक्त करती है और इस उद्देश्य के लिए उक्त अधिसूचना का निम्न प्रकार से संशोधित करती है, अर्थात्—

उक्त अधिसूचना में "डाक वर्कर्स और नौवहन कम्पनियों के एम्प्लायर्स का प्रतिनिधित्व करने वाले सदस्य" शब्दों के पद 3 में "श्री ए. कमलसेकरण" शब्दों के स्थान पर "श्री सी. वी. मुरुगेशन" शब्द रखे जाएं।

[फा. सं. एन सी ओ/108/85-ए. एन. एल]
सुदेश कुमार, अवर सचिव

नोट:—पञ्चम अधिसूचना का. प्रा. सं. 800 (अ), दिनांक 1.11.1985 के माध्यम से प्रकाशित हुई थी। इसे नवम्बर माघे उदितवित अधिसूचना के जरिए संशोधित किया गया—
का. प्रा. सं. 369, दिनांक 1-2-1986।

MINISTRY OF SURFACE TRANSPORT

(Transport Wing)

New Delhi, the 16th July, 1987

S.O. 1952.—Whereas Shri A. Kamalasekaran was appointed as a member of the Dock Workers' Advisory Committee as a member representing the employers of the dock workers and shipping companies, vide Notification of the Government of India in the erstwhile Ministry of Transport (Department of Surface Transport), No. S. O. 800 (E), dated the 1st November, 1985 (hereinafter referred to as the said Notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 1st November, 1985;

And whereas the Madras Stevedores' Association has since nominated Shri C. V. Murugesan vice Shri A. Kamalasekaran;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 of the Dock Workers' (Regulation of Employment) Act, 1948 (9 of 1948), read with sub-rule (2) of rule 3 and the second proviso to sub-rule (1) of rule 6 of the Dock Workers' Advisory Committee Rules, 1962, the Central Government hereby appoints Shri C. V. Murugesan as a member of the Dock Workers' Advisory Committee vice Shri A. Kamalasekaran and for that purpose amends the said Notification as follows, namely—

In the said Notification, under the heading "Members representing the employers of the dock workers and shipping

companies", in item 3, for the words and letters "Shri A. Kamalasekaran", words and letters "Shri C. V. Murugesan", shall be substituted.

[F. No. LDO/108/85-US(L)]

SUDESH KUMAR, Under Secy.

NOTE.—The Principal Notification was published vide S.O. No. 800(E) dated 1-11-1985. This was subsequently amended vide Notification mentioned below :

S.O. No. 369, dated 1-2-1986.

अम मंत्रालय

नई दिल्ली, 21 जुलाई, 1987

का. प्रा. 1953 :—औद्योगिक विवाद विनियम, 1947 (1947 का 14) की धारा 17 के अंतर्गत में, कर्नाट राज्य, गुरा गोल्ड माइन्स लिमिटेड, के. जी. एफ. (कर्नाटक) के प्रबंधन से सम्बद्ध विवादों और उनके कर्मचारियों के बीच, अतः के निर्णय औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक प्रशासन, बंगलूर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार का 7-7-87 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 21st July, 1987

S.O. 1953.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore, as shown in the Annexure, in the industrial dispute between the employer, in relation to the management of Bharat Gold Mines Limited, K.G.F. (Karnataka) and their workmen, which was received by the Central Government on the 7th July, 1987

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BANGALORE

Dated this the 17th day of June, 1987

Central Reference No. 13/1984. (New No. 18/87)

I. PARTY :

Shri Jayaseelan, C/o. The B.C.M. Employees' Union, Marikuppam, P.O. Kolar Gold Fields (Karnataka).

Versus

II PARTY :

The Chairman-cum-Managing Director, Bharat Gold Mines Ltd., Suvarna Bhavan, P.O., Orgaam, Post Kolar Gold Fields-563120.

APPEARANCES

For the I Party : Shri V. Gopal Gowda, Advocate, Bangalore.

For the II Party : Shri K. Jagannatha Shetty, Advocate, Bangalore.

AWARD

The Government of India by its Order No. I-43012(9)/83-D.III(B) dated 6-5-1984, made the present reference on the following points of disputes :

POINT OF DISPUTE

"Whether the action of the management of Bharat Gold Mines Ltd., Kolar Gold Field, in dismissing from service with effect from 1-3-1982 Shri Jayaseelan, Clerk, Time Office, Nundydrug Mines of Bharat Gold—Mines, K.G.F., is legal and justified? If

not, to what relief is the workman concerned entitled?"

2. During the course of the Trial I found that the workman has lost his left leg. That he has a big family and that if the litigation still continues he will be put to immense hardship. The parties were therefore requested to explore the possibilities of compromise. They accordingly arrived at a compromise and filed a joint memo.

3. This Tribunal has passed an Order as shown below

ORDER

4. Taking into account the fact that the workman has lost his left leg and has a big family, I make the suggestion to explore the possibilities of a compromise. The parties have now compromised and I find that it is in the interest of justice that it should be accepted. Accordingly, it is accepted and an award is hereby passed in terms of the compromise petition.

5. The workman prays that the management may not charge the arrears of rent for these days since the date of dismissal. I find that it is a modest prayer and should be allowed. The management is directed not to charge and recover rent or levy arrears of rent till the date that he is given employment.

6. The memo of compromise shall form part of the Award.

B. N. LALGE, Presiding Officer
[No. L-43012/9/83-D III(B)]

BEFORE THE CENTRAL INDUSTRIAL
TRIBUNAL BANGALORE, CAMP AT K.G.F.

(Ref. No. 18/87)

BETWEEN

Jayaseelan—I Party (Workman);

AND

Chairman-cum-Managing Director—II Party/Management

Joint memo filed by the Parties :

The parties above-mentioned have amicably settled the dispute as per the suggestion of the Presiding Officer of this Honourable Tribunal on humanitarian grounds on the following terms & conditions :

- (1) That the II party shall appoint the I party/workman as a new entrant in "D" grade as Clerk/Typist in full & final settlement of all his claims in this dispute.
- (2) That the II party has agreed to pay the benefit of gratuity if any which were accrued in his favour for the service rendered before his termination of his services in the II Party.
- (3) It is made clear that the I Party is not entitled for any other benefit including the benefit of gratuity for the period between the termination of his service & his new appointment.
- (4) The II party has agreed to give him employment within a week from this date. The party shall bear their own costs.

(Sd/- Illegible)

Advocate for I Party :

(Sd/- Illegible)

Advocate for II Party :

(Sd/- Illegible)

I PARTY

(Sd/- Illegible)

II PARTY

Date : 17-6-87

K G F

नई दिल्ली, 23 जुलाई, 1987

का. प्र. 1954 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैदान दास एण्ड कंपनी, पाकुर (एम. पी.) के प्रबंधन से सम्बद्ध नियोक्तों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, धनबाद के पचाट का प्रकाशित करती है, जो केन्द्रीय सरकार का 8-7-87 का प्राप्त हुआ था।

New Delhi the 23rd July, 1987

S.O. 1954.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad, as shown in the Annexure, in the industrial Dispute between the employers in relation to the management of M/s. Otan Das & Co., Pakur (S.P.) and their workmen, which was received by the Central Government on the 8th July, 1987.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 3 of 1984

PARTIES :

Employers in relation to the management of M/s. Otan Das and Company.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer

APPEARANCES :

For the Employers : Shri J. D. Lal, Advocate.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Stone Quarry

Dhanbad, the 26th June, 1987.

AWARD

The present reference arises out of Order No. L-29012 (10)/83-D.III(B) D.IV.A, dated, the 23rd December, 1983 passed by the Central Government in respect of an Industrial Dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

"Whether the termination of service w.e.f. 5-2-1982 of the following workers by the management of M/s. Otandas and Co., Pakur (S.P.) employed in their stone quarries is justified? If not, to what relief the workmen are entitled?"

LIST OF WORKMEN

- 1 Shri Khatul Sheikh (Kabatul Sheikh)
2. Shri Samail Sheikh.

2 The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3 Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S K MITRA, Presiding Officer
[No L-29022/10783-D.III(B)]

FORM H

(See rule 58)

Form of Memorandum of Settlement

Memorandum of Settlement arrived at between the Management of M/s. Otan Das & Co. Pakur and the concerned workmen Sharvashree Kabatul Sk and Ismail Sk on 12th May, 1987.

Name of Parties :

1. Representing the Employer: For Otan Das and Co. Durga Das, Partner.
2. Representing the workmen: A. Kabatul Sk B. Ismail Sk.

Short Recital of the Case

The concerned workmen namely Sharvashree Kabatul Sk and Ismail Sk were directed by the Management to work on alternative job of Drill Man due to some excecquency of work on and from 05-2-1982, but the two concerned workmen refused to work as Drill Man as directed by the Management. Thus they remained idle on their own since 05-2-82. to 31-5-1982. However good sense prevailed and the two concerned workmen and the Union approached the Management for employment and they were provided with job of Drill-Man with effect from 01-6-1982 and since then they are working as such.

However after the reference of the present dispute the workmen again approached the Management for mutual settlement of the case and the Management reciprocated the good gasture shown by the workmen and with a view to cordial relation between the Management and the Workmen and industrial peace the present dispute in Ref. Case No. 3 of 1984 pending in Central Government Industrial Tribunal No. 1, Dhanbad, is mutually resolved on the following terms :—

TERMS

1. That the two concerned workmen agreed to work as Drill-Man and the Management agreed to employ them as Drill-Man since 01-6-1982 and since then the two concerned workmen are working as such. The concerned workmen have voluntarily and with their own consent fine will have accepted the job of Drill-Man, which is a higher post and the workmen are getting higher wages.
2. The concerned workmen do not claim to be employed on their original job of Miners any more.
3. That the wages for the idle period from /5-2-1982 to 31-5-1982 has been paid by the Management to the concerned workmen as a good gasture and to maintain cordial employer and Employees relationship and the concerned workmen do hereby acknowledge the receipt of the Wages for the aforesaid period of idleness.
4. The concerned workmen have no other claim or claims arising out of dispute in reference case no. 3 of 1984 and all disputes between the Management and the concerned workmen arising out of reference case no. 3 of 1984 have been resolved to the mutual satisfaction of the both Management and the concerned workmen.
5. The concerned workmen admits that th Santhal Parganas Zilla Mines and Quarry Workers Union does not represent the two concerned workmen and they are not the member of the Santhal Parganas Zilla Mines and Quarry Workers Union which has no existence in the establishment where there two concerned workmen are employed.

Signature or thumb impression.

of the workmen :—

(L.T.I.)

1. Sri Kabatul Sk.

(L.T.I.)

2. Sri Ismail Sk.

Signature of the Witnesses :

For M/s. Otan Das & Co.

Sd/-

1. Suresh Kumar,
Manager.

2. Naraan Ghosh,
Manager.

Sd/-

Shiv Shanker Stone Work,
Mazurkola Stone Mines.

Sd/-

S. K. Gupta,
for the mine Representative
Signature of the Employers

representative :

Sd/-

Signature of the representative
of the Union present.

Deep Narain Dube,
Asstt. Secy.

Quarry Workers Union
Pakur, (I.N.T.U.C.)
Part of the Award.

नई दिल्ली, 22 जुलाई, 1987

का. प्रा. 1955 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बलिवारां कोयला मैसमें भारत कोयला नान लिमिटेड के संबंध में कर्मचारी-जनों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, संभाग-1, धानबाद के पंचांग को प्रकाशित करती है, जो केन्द्रीय सरकार का 10 जुलाई, 1987 का प्राप्त हुआ था।

New Delhi, the 22nd July, 1987

S.O. 1955.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Balhara Colliery of M/s. Bharat Coking Coal Ltd., At and P.O. Kusunda District Dhanbad and their workmen, which was received by the Central Government on the 10th July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the
Industrial Disputes Act, 1947
Reference No. 27 of 1982

PARTIES:

Employers in relation to the Management of Balhara
Colliery of M/s. B.C.C. Ltd., At and P.O. Kusunda,
Distt. Dhanbad.

AND

Their workmen

PRESENT:

Shri S. K. Mitra, Presiding Officer.

APPEARANCES

For the Employers: Shri R. S. Murty, Advocate, and
Shri B. M. La, Dy. Chief Personnel Manager.

For the Workmen: None.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, the 30th June, 1987

AWARD

The present reference arises out of Order No. L-20012(10)/81-D.III(A), dated, the 2nd April, 1982 passed by the Central Government in respect of an industrial dispute between

the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

"Having in view the minutes of discussions dated the 24th February, 1976, whether the demand of the workmen of Balihari Colliery of Messrs Bharat Cooking Coal Limited, Post Office Kusunda, Dist. Dhanbad, for regularisation of Tyndals, as listed in the Annexure below, as departmental workmen is justified? If so, to what relief are the concerned workmen entitled?"

ANNEXURE

1. Sri Dayal Singh
2. Sri Raghava Singh
3. Sri Latu Mahal
4. Sri Asha Ram Mallah
5. Sri Jawahar Singh
6. Sri Barasmuni Upadhyay
7. Sri Ramu Paswan
8. Sri Adhirath Mahato
9. Sri Bisheshwar Mahato
10. Sri Ratilal Mahato
11. Sri Banwari Pandit
12. Sri Balo Mahato
13. Sri Bhairo Mahato
14. Sri Mahavir Dusadh
15. Sri Girdhari Mahato
16. Sri Rajendra Prasad
17. Sri Surajdeo
18. Sri Ratan Mailah
19. Sri Sheonandan Ram
20. Sri Drigpal Singh
21. Sri Degan Mahato
22. Sri Guptaeswar Ram
23. Sri Amar Singh
24. Sri Tej Mohammad
25. Sri Sukhdeo Sao
26. Sri Digamber Singh
27. Sri Ramkesh Sharma
28. Sri Muneshwar Mahato
29. Sri Jethu Mahato
30. Sri Tika Mahato
31. Sri Lagan Mahato
32. Sri Jairam Rajak
33. Sri Bhola Singh
34. Sri Janki Ram
35. Sri Basai Yadav
36. Sri Amola Prasad
37. Sri Satyanarain
38. Sri Bishwanath
39. Sri Ganesh Mistry
40. Sri Rampadarath
41. Sri Kali Mahato
42. Sri Rambilash Ram
43. Sri Jaigovind
44. Sri Rameshwar
45. Sri Ramjas Yadav
46. Sri Rajbahadar Yadav
47. Sri Islam Mia
48. Sri Seolakhan Singh
49. Sri Dukhi Ram
50. Sri Ramratan Paswan
51. Sri Nago Yadav
52. Sri Mahendra Paswan
53. Sri Chandradeo Yadav
54. Sri Jugendra Singh
55. Sri Om Prakash Sharma

56. Sri Naresh Mistry
57. Sri Chandreshwar Dusadh
58. Sri Mangal Banwari
59. Sri Lakhani Yadav
60. Sri Budheshyam Passi
61. Sri Ramnath
62. Sri Noor Mohamad
63. Sri Sheonath
64. Sri Lakhani Ram
65. Sri Jacobans Prasad
66. Sri Rajendra Prasad
67. Sri Sukhdeo Dusadh.

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer

[No. L-20012/10/81-D.III(A)]

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD IN THE MATTER OF REF. NO. 27 OF 1982

PARTIES

Employers in relation to the Management of Balihari Colliery, of Bharat Cooking Coal Ltd., Post Office, Kusunda, Distt. Dhanbad.

AND

Their Workmen.

JOINT COMPROMISE PETITION OF EMPLOYERS AND WORKMEN

The above mentioned employers and workmen beg to submit jointly as follows :—

1. That the employers and the workmen have jointly negotiated that matter with a view to arriving at an amicable and overall settlement of the matter covered by the aforesaid reference.
2. That as result of the aforesaid negotiations the employers and the workmen have arrived at a mutually acceptable and amicable settlement as follows :—

(a) It is agreed that the Management had already provided employment to the following 23 workers out of the 67 workers covered by the aforesaid reference and that there is no dispute

whatsoever any longer with respect to these 23 workers:—

Sl. No.	Name	Sl. No. of Schedule of Ref.
1.	Shri Dayal Singh	1
2.	Shri Raghava Singh	2
3.	Shri Ashu Ram Malah	4
4.	Shri Byas Muni Upadhyay	6
5.	Shri Ramu Paswan	7
6.	Shri Adhirath Mahto	8
7.	Shri Ratilal Mahato	10
8.	Shri Banwari Pandit	11
9.	Shri Bale Mahto	12
10.	Shri Bhairo Mahto	13
11.	Shri Mahabir Dusadh	14
12.	Shri Jatial Mahto	29
13.	Shri Tika Mahto	30
14.	Shri Lagan Mahto	31
15.	Shri Dhola Singh	33
16.	Shri Janki Ram	34
17.	Shri Basai Yadav	35
18.	Shri Anola Prasad	36
19.	Shri Satya Narain	37
20.	Shri Biswa Nath	38
21.	Shri Ram Padrath	40
22.	Shri Kali Mahto	41
23.	Shri Islam Mian	47

(b) That it is agreed that the Management shall provide employment from new onwards to the following 11 more workers out of the 67 workers covered by the above reference as piece-rated Miner Loaders for working in the underground sections of the mines in piece-rated group-V-'A':—

Sl. No.	Name of the workers	Sl. No. in the schedule to Ref. order
1.	Shri Rajendra Prasad	16
2.	Shri Surajdeo	17
3.	Shri She Nandan Ram	19
4.	Shri Sakudeo Saw	25
5.	Shri Ram Bilash Ram	42
6.	Shri Jai Gobind	43
7.	Shri Rameshwar	44
8.	Shri Sukhi Ram	49
9.	Shri Nago Yadav	51
10.	Shri Noor Mahamunad	62
11.	Shri Sheo Nath	63

(c) It is agreed that the Management shall provide employment to a further number of 23 workers covered by the aforesaid ref. at daily rated Cat. I, workers for performing jobs of Cat. I as per job description given in National Coal Wage Agreement No. 1 i.e., according to the concept of all men all jobs of Cat. I, introduced in connection with the Hydro Mine Project :—

Sl. No.	Name of the workers	Sl. No. in the Schedule to Ref. Order
1.	Shri Jewahar Singh	5
2.	Shri Diseshwar Mahato	9
3.	Shri Giridhari Mahato	15
4.	Shri Ratan Mallah	18
5.	Shri Degan Mahato	21
6.	Shri Amar Singh	22
7.	Shri Taj Mohammad	24
8.	Shri Ganesh Mistry	39
9.	Shri Sheo Lakhan Singh	48
10.	Shri Ram Ratan Paswan	50
11.	Shri Mahendar Paswan	52
12.	Shri Chandradeo Yadav	53
13.	Shri Jagender Singh	54
14.	Shri Om Prakash Sharma	55
15.	Shri Naresh Mistry	56
16.	Shri Chandreshwar Dusadh	57
17.	Shri Mangal Bouri	58
18.	Shri Lakhan Yadav	59
19.	Shri Rudhey Shyam Pasi	60
20.	Shri Lakhan Ram	64
21.	Shri Jadu Bans Prasad	65
22.	Shri Sukhdeo Dusadh	67
23.	Shri Rajender Prasad	66

(d) It is agreed that the further number of following 8 workers will also be provided employment in daily rated Cat. I for performing any of the jobs of Cat. I on the same basis as indicated in respect of 23 workers referred to under clause (a) above :—

Name of the workers as given by the Ex-Contractor	Name of the workers as appearing in schedule to the reference order	Sl. No. in the Schedule to the Ref. Order
1.	Shri Latu Mallah	3
2.	Shri Dirpal Singh	20
3.	Shri Gopeshwar	22
4.	Shri Banktesh Sharma	27
5.	Shri Maneshwar Paswan	28
6.	Shri Ramyas	45
7.	Shri Raj Bahadur	46
8.	Shri Digambar Singh	26

3. It is agreed that employment will be provided to the 8 workers referred to in clause 2(d) above subject to the following conditions :—

(a) The workers concerned should file affidavit with their photograph affixed thereon that their correct name is as indicated at Ca 1.8 of Clause 2(a) above.

(b) The Branch Secretary of RCMS Shri Murli Dhar Prasad will certify the genuineness of each workers by certifying and attesting the photograph of each worker that he is the person concerned whose name appear at relevant as Sl. No. of the schedule of Ref. {No. 27/82.

(c) The workers concerned should also produce certificates with their photographs affixed thereon from the Mukhiya and B.D.O. concerned regarding their identification and genuineness.

4. It is agreed that the 11 workers referred to in clause 2(b) and 23 workers referred to in clause 2(c) should also file affidavit with their photographs affixed thereon stating that they were the workers bearing the same names working under the ex-contractor and they should also produce a certificate from the Mukhiya and B.D.O. concerned regarding their identification and genuineness with the photographs duly attested that they are the person who are entitled to employment under the above reference.

5. It is agreed that employment will be provided to the workers referred to in clause (b), (c) and (d) above subject to their being medically found fit by the Medical Officer of Bharat Coking Coal Ltd.

6. It is agreed that if at any time in the future it is found that the workers/persons concerned were not the genuine persons or persons who have not worked under ex-Contractor, the management shall have the right to terminate their services summarily.

7. It is agreed that the appointment in all the cases of workers referred to in clause 2(b), 2(c) and 2(d) will be absolutely a fresh and that the workers concerned will not be entitled to any monetary or non-monetary benefits in regards to any past period. The appointment will be provided as soon as the specified conditions are fulfilled.

8. It is agreed that the following two persons at Sl. No. 32 and 61 in the schedule of Reference whose names do not fully tally with the list of the names given by the Contractor, the Union will submit further details which will be examined and forwarded to Hd. Qr. It is only after the approval of the Hd. Qr. their cases will be considered. The decision of the Hd. Qr. will be binding.

Name of the persons Sl. No. under the reference Order.

- | | |
|----------------------|----|
| 1. Shri Jayram Rajak | 32 |
| 2. Shri Ram Nath | 6 |

9. It is agreed this is an overall settlement in respect of the claims of the Workmen/sponsoring union arising out of the aforesaid reference.

10. That the employers and the workmen consider that the above agreement/settlement is fair, just and reasonable to both the parties.

In view of the above, the employers and the workmen jointly pray that the Hon'ble Tribunal may be pleased to give an award in terms of this joint compromise petition and dispose of the reference accordingly.

And for the both the parties shall as in duty bound shall ever pray.

Sd/-

Sd/-

Shri S. Das Gupta,
Acting Presiding
R.C.M.S.,

General Manager
Pootke Balihari Area.
Bharat Coking Coal Limited

For and on behalf of the workmen.

For and on behalf of Employers

Sd/-

Shri Murlidhar Prasad, Dy. Chief Personnel Manager,
Dr. Secretary, Balihari Colliery,
Pootkee Balihari Area, BCCL,
R.C.M.S.,

For and on behalf of Workmen.

For and on behalf of employers

WITNESS :—

(1) Sd/- Illegible

(2) Sd/- Illegible

Distribution :

1. Asstt. Labour Commissioner (C), Dhanbad.
2. Regional Labour Commissioner (C), Dhanbad.
3. Chief Labour Commissioner (C), New Delhi.
4. Secretary, Ministry of Labour, Govt. of India, New Delhi.
5. General Manager (Personnel), BCCL, Koyla Bhawan, Dhanbad.

का. प्रा. 1956:—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार, कोल-यरी, सैसरे सेन्ट्रल कोल फील्ड लिमिटेड के प्रबंधन के सम्बन्ध विवादों और उनके कर्मचारों के बीच, अन्तर्गत में निम्न प्रौद्योगिक विवाद ने केन्द्रीय सरकार प्रौद्योगिक अधिकरण, संख्या-2, बरसाद, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7 जुलाई, 1987 को प्राप्त हुआ था।

S.O. 1956.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sirka Colliery of M/s. Central Coalfields Limited, and their workmen, which was received by the Central Government on the 7th July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

Reference No. 76 of 1985

In the matter of industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Sirka Colliery of Messrs. Central Coalfields Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri A. Alam, Advocate.

On behalf of the employers.—Shri K. D. Chatterjee,
Sr. Advocate and Shri J.
Krishna, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 26th June, 1987

AWARD

The Govt., of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/ (355)/84-D.III(A), dated the 1st June, 1985.

SCHEDULE

"Whether the demand of United Coal Workers' Union that the Wagon Loaders mentioned in the Annexure to this Order should be paid appropriate wages directly by the management of Sirka Colliery of Messrs Central Coalfields Limited and that their record of employment should be maintained properly by the said management is justified? If so, to what relief are the said wagon loaders entitled?"

ANNEXURE

Sl. No.	Name of the workmen	Father's name
1.	Mankari Gope	Jagmohan Gope
2.	Kanhu Munda,	Charan Munda
3.	Barlanga	Charan
4.	Bijendra	Sarbhu Manjhi
5.	Birju Chouhan	Rajan Chouhan
6.	Motu	Arajud Mahto
7.	Bali Ram	Mazahar Ram
8.	Garib Ram	Righu Ram
9.	Ramashwarup	Bharat Dusadh
10.	Baldeo Mahto	Dukhi Mahto
11.	Rafique Mian	Nabi Mian
12.	Ramdeo Ram	Fishun Manjhi
13.	Ramchandra Majhui	Basudeo Manjhi
14.	Baishakhu Das	Gopichand Das
15.	Kamla Devi	Belli Gope
16.	Kawali Devi	Girdhari Chaouhan
17.	Mangal	Jhari
18.	Ramprasad	Jhalwa
19.	Basishat	Balo Das
20.	Ramjit	Radhkhan
21.	Arjun Choudhary	Ganesh Choudhary
22.	Dukhia Ram	Rameshwar
23.	Noor	Karu Mian
24.	Ramchandar	Baiju
25.	Bishun	—
26.	Judai	Doman Manjhi
27.	Satdeo	Shodagar Manjhi
28.	Govind Rajak	Gouri Rajak
29.	Shadhu Rajak	Madan Rajak

Sl. No.	Name of the workmen	Father's name
30.	Chudaban Rajak	Jitan Rajak
31.	Matlu Bhian	Butan Bhian
32.	Kaila Rajak	Babulal Rajak
33.	Suresh	Laxman
34.	Basant	Jamun Manjhi
35.	Rajan	Ganouri
36.	Nagina	Mahabir
37.	Naresh	Manki
38.	Narayan Ram	Sheo Nandan Ram
39.	Naresh Manjhi	Hari Manjhi
40.	Kishun Mahto	Parshadi Mahto
41.	Bhiku Saw	Baudhi Saw
42.	Shonu Munda	Ganga Munda
43.	Krishna	Shankar Manjhi
44.	Mahendar	Ramdhar Mahto
45.	Amrika	Baso Rajlaxnsi
46.	Bijai Thakur	Sevan Thakur
47.	Rank Ram	Kalicharan Ram
48.	Indradeo Mandal	Sila Ram Mahto
49.	Rajendra Prasad	Brahmdeo Mahto
50.	Kaila	Koshi Bhian
51.	Laljit	Kishi Bhian
52.	Ramna	Baldeo Bhuian
53.	Rajbalan	Para Bha
54.	Goriledas	Jagdish
55.	Sanicharwa	Daam Bhuia
56.	Minka	Bihari Manjhi
57.	Rambhilas	Nagar Bhuia
58.	Ramashish	—do—
59.	Bhuneswar	Shiba Bhuia
60.	Ramsarup	Potuli Bhuia
61.	Muna	Chahal Bhuia
62.	Rameshwar	Bhalav Bhuia
63.	Lalan Chouhan	Nathun Chouhan
64.	Koka	Nanhak Paswan
65.	Premnath	Kasi Bhuia
66.	Chouthi Bhuia	Jago Bhuia
67.	Amrika Bhuia	Gokul Bhuia
68.	Janak Bhuia	—do—
69.	Mahendar Bhuia	Jethu Bhuia
70.	Jamuna Bhuia	Bihari Bhuia
71.	Biju Bhuia	Lalwari Bhuia
72.	Sarju Bhuia	—do—
73.	Mushi Bhuia	Ranjia Bhuia
74.	Girani Bhuia	Kask Bhuia
75.	Sarda	Foudi Bhuia
76.	Basudeo	Mani Singh
77.	Badeshi	Pana Manjhi
78.	Birchha	Ramkishun Manjhi
79.	Mahesh Sao	Bhikhari Sao
80.	Parshadi Bhuia	Bhikhan Manjhi
81.	Chandu Ram	Punit Ram

Sl. No.	Name of the workmen	Father's name	Sl. No.	Name of the workmen	Father's name
82.	Kaila Ram	Shukhdeo Bhuia	135.	Arbind	Muktaman
83.	Nandwa Ram	Bideshi Ram	136.	Bengali	Bbukhan Manjhi
84.	Charka Nayak	Kalicharan			
85.	Puran	Khedu Das	138.	Rambrichha	Sahdeo Singh
86.	Amir Das	Jagdish Das	139.	Gobind Bhuia	Kaila Bhuia
87.	Shukara	Ganouri	140.	Ramjit	Ramgobind Singh
88.	Shoukhi Bhuia	Dasan Bhuia	141.	Muslim	Banif.
90.	Sonama	Etwari	142.	Jagdish Sao	Boudhi Sao
91.	Bhuna Mahto	Maria Mahto	143.	Jamuna	Galo Ram
92.	Gudhadan	Rajrangi Bhuia	144.	Murli Munda	Singa Munda
93.	Hepia Munda	—do—	145.	Surajdeo	Sahdeo Singh
94.	Deolal	Peru Manjhi	146.	Awadh Bihari Upadhaya	Sadbucharan Upadhaya
95.	Lorka	Latan			
96.	Mushafir	Chaman	147.	Shyamnandan	Seojee Singh
97.	Jogeshwar	Kishun	148.	Birju	Kuber
98.	Mehar	Ramlal Nayak	149.	Jagdish	Nanku
99.	Samsul	Jamal	150.	Bachu	—do—
100.	Sankar	Kanhailal	151.	Raju	Nanku
101.	Basho	Rajkumar Manjhi	152.	Mchilal	Sarju
102.	Maheshwar Bhuia	Bideshi Bhuia	153.	Dhaya	Mahabir
103.	Krishan Chouhan	Bhulu Chouhan	154.	Sanjay	Hira
104.	Laxman Turia	Gopi Turia	155.	Puran	Arjun Gope
105.	Ramji Bhuia	Bhuneshwar Bhuia	156.	Binod	Bhuneshwar Prasad
106.	Parbati Devi	Prasad Chouhan	157.	Murli Singh	Nirgun Singh
107.	Chhotan Bhuia	Eto Bhuia	158.	Bijay Singh	Sarju Singh
108.	Balo Uraw	Nandlal Uraw	159.	Kaila	Rodha Mahto
109.	Bigan	Dukhan Mahto	160.	Lalchand Pd. Mahto	Nanku Mahto
110.	Mani	Arajlal	161.	Bajinath Prasad	Jhalu Mahto
111.	Ruastam	Batai-Mian	162.	Lahangi Prasad	Sarju Mahto
112.	Tekmeshwa	Bidesi Bhuia	163.	Anil Singh	Sarju Singh
113.	Rajkumar	Bihari Manjhi	164.	Mandu Ram	Shoukhi Ram
114.	Fulchand Ram	Kashi Ram	165.	Nepal Ram	—do—
115.	Inadar	—do—	166.	Sukha	Budhu
116.	Kailash	—do—	167.	Kumara	—do—
117.	Madbeshwar	—	168.	Latna Ram	Baldeo Ram
118.	Arjun	Manka	169.	Ramun Ram	Jadhori Ram
119.	Bajwa Bhuia	Kaila Bhuia	170.	Lakhan Ram	—do—
120.	Kameshwar Ram	Rambrich Ram	171.	Kailash Ram	Radheshayam Ram
121.	Rameshish	Bijnath Ram	172.	Kaila Ram	—do—
122.	Tuntun Ram	Rambrichh Ram	173.	Bhuneshwar Ram	Janka
123.	Sanju	—	174.	Kalyan Ram	Jemun Ram
124.	Ramjit Ram	Mahit Ram	175.	Ashok	Shoudagar
125.	Rambilasb Rajak	Gouri Rajak	176.	Arjun Bhuia	
126.	Pashan Bhuia	Shoudagar Bhuia	177.	Karu Manjhi	Prakhu Manjhi
127.	Latan Bhuia	Mahabir Bhuia	178.	Birju Ram	Baju Ram
128.	Juman Munda	Sambhu Munda	179.	Sako	—do—
129.	Mahtu Munda	Mathura Munda	180.	Sita Ram	Baldeo Ram
130.	Shyam Deo	Bhutan Manjhi	181.	Gunadhar Bedia	Seocharan Bedia
131.	Manik Chand	—	182.	Ramdeo Bedia	—do—
132.	Jupurakash	Bhagwat Pathak	183.	Jageshwar Manjhi-I	Gahan Manjhi
133.	Parmanand	—	184.	Sheocharan Thakur	Kishan Thakur
134.	Panchnand	Dashrath Choudhary	185.	Ratna	Bideshi

Sl. No.	Name of the workmen	Father's name	Sl. No.	Name of the workmen	Father's name
186.	Souama	Bedeshu	240.	Puran Choudhry	Pai ko Choudhary
187.	Shyamdeo	—do—	241.	Sudharshu Choudhry	Sarju Choudhary
188.	Brendra Mahto	Sudama Mahto	242.	Kishun Ram	Devki Ram
189.	Jagdish-II	Jago	243.	Sarju Rabidas	Taluk Rabidas
190.	Pusna Mahto	Basudeo Mahto	244.	Jagarnath Rabidas	Shreechand Rabidas
191.	Annut Ram	Chhotan Ram	245.	Dukhi Choudhry	Rabidas Choudhry
192.	Mesafir	Shomna	246.	Anuramth Sao	Gopi Sao
193.	Bhatu	—do—	247.	Murli Chand Rabidas	Bh neshwar Rabidas
194.	Chana	Sakti	248.	Santi Urawon	Shushid Urawon
195.	Bishwanath	Muna Mahto	249.	Charka	Shoolal
196.	Lakhan Mahto	Maneshwar Mahto	250.	Raedeo	Ran shai
197.	Chotalal Manjhi	Sohsai Manjhi	251.	Lal Mohan	Birshu
198.	Deosagar Chouhan	Choudre Gobind	252.	Manima	Charu
199.	Rameshwar Ram	Pasaudi Ram	253.	Sitala	Juran
200.	Sudanga Mahto	Ragunath Mahto	254.	Chalitar Ram	Raghunath Ram
201.	Prakash Mahto	Prasadi Mahto	255.	Aditya Ram	Mohanir Ram
202.	Malleshwar Rajhansi	Ghitar Rajbansi	256.	Ramsakal Ram	Kulhar Ram
203.	Kasho Rabidas	Etwari Rabidas	257.	Shredeliangi Ram	Tulsi Ram
204.	Haricharan Ram	Chhotan Ram	258.	Seoshagar Ram	Prit Ram
205.	Dev Raj Prajapati	Fagun Parajapati	259.	Bodh Ram	Bh neshwar Ram
206.	Ramkrishan Mahto	Shukhdeo Mahto	260.	Inderdeo Ram	D bh Ram
207.	Chali Mahto	Shikhdeo Mahto	261.	Suresh Mahto	D aneshwar Ram
208.	Ghiraj Rabidas	Ramcharit Rabidas	262.	Ramjee Mahto	—do—
209.	Arjun Rajbansi	Prayag Rajbansi	263.	Shuaselsi Ram	T neshwar Ram
210.	Kamo Ram	Prasadi Ram	264.	Suresh Ram	Muni Ram
211.	Shree Ram	Aghu Ram	265.	Raghunath Mahto	Prayag Mahto
212.	Jatan Manjhi	Dahu Manjhi	266.	Arlu Baitha	Rohan Baitha
213.	Pabu Lal Manjhi	Manager Manjhi	267.	Chandrapati Prajapati	Bekumar Prajapati
214.	Chaleshwar Manjhi	Sohraj Manjhi	268.	Shuneshwar Baitha	Raghubias Baitha
215.	Ganesh Rabidas	Brihaspat Rabidas	269.	Rampukar	Pa neshwar Noniya
216.	Jani Rabidas	Ganesh Rabidas	270.	Sudama	M ku Baitha
217.	Bhuneshwar Ram	Dhasan Ram	271.	Lakhan	Pa neshwar Noniya
218.	Shuresh Ram	Barneshwar Ram	272.	Bedesi	Ranayinia
219.	Lalit Prasad	Badri Mahto	273.	Jogani Sao	Sao Sao
220.	Arbind Kumar	Faudi Mahto	274.	Laxmi Sao	Randeo Sao
221.	Kailash Mahto	Dhaka Mahto	275.	Ram Bhatan Sao	Gapat
222.	Kigal Rajbansi	Jagdeo Rajbansi	276.	Shree Choudhry	Kitun Choudhry
223.	Anil	Samsera	277.	Rasaka	Biri
224.	Kileshwar Prasad	Puna Mahto	278.	Somra	Randayal
225.	Ishwar Mahto	Ramsartazi Mahto	279.	Kameshwari	D khi Singh
226.	Jugadi Manjhi	Karu Manjhi	280.	Narayan Urai	Chandhara Urai
227.	Petamber	Sukhdeo	281.	Mahesh Choudhry	Bhri Choudhry
228.	Surgita	Fulshi	282.	Bandhan	Saicharwa
229.	Panna Lal	Gopa	283.	Kishun Choudhary	Bil tu Choudhary
230.	Chand Sao	Baldhu Sao	284.	Sambhu Munda	Urawari
231.	Chanderdeo Yadav	Jatan Yadav	285.	Sokhi	Bhagaru Manjhi
232.	Chandradip Sao	Puran Sao	286.	Sita Ram	Chhari
233.	Suresh Singh	Banulal Singh	287.	Ram Chandra	Ra dhani
234.	Sitar Ram Prasad	Mohan Prajapati	288.	Rajendra	Kauldeo Singh
235.	Khai Thakur	Saba Thakur	289.	Pardhuman Baitha	Bhansi Baitha
236.	Enop Ram	Birju Ram	290.	Birju	Rana
237.	Bonod Ram	Jagnarayan	291.	Kamdeo	Deji Baitha
238.	Mundar Choudhary	Mukhdeo Chaudhary	292.	Maharaja	Prajapati
239.	Munda Choudhary	Sukhdeo Choudhary	293.	Raghu Ram	Rakhilawan

Sl. No.	Name of the workmen	Father's name	Sl. No.	Name of the workmen	Father's name
294.	Sibhana Prajapati	Dukharan Prajapati	348.	Surajdeo Ram	Nandi Ram
295.	Krishna Ram	Jarnu Ram	349.	Satyanarayan	Birju Ram
296.	Saukhi	Usant Manjhi	350.	Sondagar Manjhi	Ragho Manjhi
297.	Kailash	Ramtahal	351.	Laxman Mahto	Ragho Mahto
298.	Jagarnath Sao	Balakeshwar Sao	352.	Smt. Kamli Devi	Binda
299.	Shankeshwar Yadav	Gopi Yadav	353.	Akawa	Saudagar
300.	Narayan Sao	Lochan Sao	354.	Marodevi	Kuldeep Ram
301.	Ganeshwar Sao	Bharo Sao	355.	Deonandan Thakur	Mahabir Thakur
302.	Arjun Oraow	Lathu Oraw	356.	Suresh	Bakhori
303.	Fagun Orew	Bhugam	357.	Bajinath Mahto	Mahto, Mahto
304.	Somari Lotha	Ohobia	358.	Ramsurat Ram	Muhdrika
305.	Parnu	Ramrup	359.	Shyamdeo Ram	Aliya Ram
306.	Dhanesar	Chhotan	360.	Jamuri	Atwari
307.	Srimati Bhouri Devi	-do-	361.	Ramprasad	Chamari Rajbansi
308.	Pramod Kr. Thakur	Bisheshwar Thakur	362.	Kishori Mahto	Satynarayan Mahto
309.	Surjo	Siba	363.	Suresh Rabidas	Dukhi Rabidas
310.	Prameshwar	Ramrup	364.	Mahendra Rabidas	Godi Rabidas
311.	Sheo Charan Mahto	Narain Mahto	365.	Smt. Paridho Devi	Baleshwar Ram
312.	Boresha	Ramrup	366.	Kaili Devi	Chamari Manjhi
313.	Jogendra Sao	Ruplal	367.	Sumitri Devi	Rameshwar Manjhi
314.	Indradeo Ram	Mundrika Sao	368.	Rukminiya	Gadberu
315.	Brijdeo Ram	Mundrika Ram	369.	Rajo	Prabhu Manjhi
316.	Chandradhan Ram	Mundrika Ram	370.	Sharan Ram	Dashrath Ram
317.	Sita Ram	Ramdas Ram	371.	Somu Ram	Fuchi Ram
318.	Rajendra Ram	Janki Ram	372.	Bachan Ram	Rohan Ram
319.	Tuna Ram	Sukur Ram	373.	Dhaneshwar Ram	Ram Laxhan Ram
320.	Rambasan Ram	Rameshwari Ram	374.	Sarjug Manjhi	Damari Manjhi
321.	Mahendra Ram	Inderdeo Ram	375.	Anand Mahto	Tekar Manjhi
322.	Kailash Ram	Ramdhari Ram	376.	Nansalal Mahto	Gopa Mahto
323.	Ramdas Ram	Ishwari Ram	377.	Ramnandan Paswan	Ramdhani Paswan
324.	Rajendra Thakur	Mahadas Ram	378.	Chandeshwar Rabidas	Janki Rabidas
325.	Anusadhi Sao	Arjun Sao	379.	Baju	Manki
326.	Gobind Oraon	Laldeo Chand Orawn	380.	Basudeo	Ramdeo
327.	Karu	Daroughi	381.	Jagdeo	Rameshwar
328.	Sakuldeo Oraw	Sakun Orawn	382.	Nageshwar	Janki
329.	Radheshyam Orawn	-do-	383.	Sajua	Hansa
330.	Jagarnath Orawn	Mahesh Orawn	384.	Dhaneshwari Devi	Baleshwar Mahto
331.	Surjdeo Gope	Sita Ram Gope	385.	Mina Devi	Gulab Choudhary
332.	Shyampari Devi	Prameshwar Ram	386.	Mina Devi	Gulab Chuodhary
333.	Babu Lal	Basant	387.	Kedar Rabidas	Genori Mahto
334.	Lalu	Budhan	388.	Luxman Manjhi	Sukar Manjhi
335.	Sitali	Jainath	389.	Smt. Yashodha	Kishun Ram
336.	Rajendra Prajapati	Dukheshwar Prajapati	390.	Darsu Devi	Hari Manjhi
337.	Bhola	Nanmohan	391.	Sharda	Somra Manjhi
338.	Bangali	Shyamlal Singh	392.	Shanti Devi	Prasadi Mahto
339.	Karamdeo Sao	Bhado	393.	Sharda Devi	Hari Manjhi
340.	Sbaeya Mahto	Inder Mahto	394.	Lachho	Chottan Ram
341.	Dashai	Bandi	395.	Kari	Shyamlal Matho
342.	Jagdish	Ramanuj Manjhi	396.	Lalti Devi	Faguni
343.	Buletana	Maneda Ram	397.	Sonmati	Faguni Ram
344.	Kameshwar Mahato	Chalitar Mahto	398.	Kaushilya	Ramrupa
345.	Dharindra Singh	Ganeshwar Pd. Singh	399.	Tono Devi	Prayag Rajbansi
346.	Sita Sao	Talu	400.	Bimal Devi	Lali Rajbansi
347.	Deogagi Ram	Manik Ram			

Sl. No.	Name of the workmen	Father's name	Sl. No.	Name of the workmen	Father's name
401.	Shnti Devi	Mathura Rajbansi	455.	Bind Singh	Jiblal Singh
402.	Dhandari Devi	Paltu	456.	Laxman Sao	
403.	Kari No. I	Bokhari	457.	Kameshwar Choudhary	Mangru Choudhary
404.	Kari No II	Fagun	458.	Raghu Choudhary	Choudhary Arbind
405.	Narendra Prasad	Prasadi Mahto	459.	Arabind Choudhary	Muktman Choudhary
406.	Bandhan	Mohan Bhuta	460.	Badelcan	Kariman Yadav
407.	Rambrich Ram	Atbari Ram	461.	Seodhari	Kariman Yadav
408.	Brijnanda Mahto	Batcho Mahto	462.	Shayam Bihari	Sheonarayan Yadav
409.	Gulab	Somar Ram	463.	Kantush Singh	Mahendra Singh
410.	Pawan Kr. Singh	Mukati Pr. sad Singh	464.	Baitinath Giri	Jalshwar Giri
411.	Ganesh Manjhi	Lachho Manjhi	465.	Banbansi Gope	Ramkori
412.	Digana	Lachho Manjhi	466.	Chotelal	Ramkishun
413.	Sita Ram	Hari	467.	Tabu	Raja Ram
414.	Krishan Manjhi	Kamahi Manjhi	468.	Kailash	Raja Nath
415.	Suresh Ram	Daho Manjhi	469.	Hari Ram	Sheo Pujan
416.	Jago	Jathu	470.	Manaraj	Jagu
417.	Rameshwar	Shankar Daya	NOTE.—It may be noted that in the annexure to the order of reference there is no Sl. No. 89 and 137.		
418.	Raghubir	Kala			
419.	Ramadhuc	Kamla	The case of the workmen is that the 470 workmen under the reference are employees of Sirka colliery of M/s. CCL. They were engaged permanently and continuously for several years as wagon loaders. The management in order to deprive them of the benefits and facilities to which they are lawfully entitled do not maintain the statutory records relating to their employment and are not issued documents and papers which are statutorily required in support of their employment. The management do not even by them their wages directly to them for the work of loading performed by them by the management. Sirka Colliery maintain two railway sidings, namely, Sirka east and Sirka proper siding. The coal extracted from the Sirka Colliery is transported to different places by railway wagons from the said two sidings. For that purpose the railways sent its wagons to the two sidings from where the management gets the coal loaded in the wagons. The loading of coal in the railway wagons is carried out annually by the employees of the collieries who are designated as wagon loaders. The management falsely asserted during the conciliation proceeding that it has on its roll only 329 permanent wagon loaders and 13 casual wagon loaders engaged in the work of loading of coal on the railway wagons. The said 329 permanent wagon loaders and 13 casual wagon loaders are the workmen on the record of the management. However, both the workmen on record of the management and the workmen under reference are all employees of the same management engaged simultaneously for doing exactly the same job. The wagon loaders work 8 hours per day and they are paid wages on piece rate basis. The work load for wagon loading of coal is 4.5 M.T. per individual workmen during 8 hours working day. The wagon loaders work in a team and several workmen for loading each railway wagon and the said team is known as Gang or Dangal. Each gang has its own leader from its own gang and is known as Dangal Sudar. The number of workmen comprising a gang depends upon the size of the railway wagon. The railway wagons are generally of 2 sizes, namely, of 22 M.T. known as four wheelers, 56 M.T. known as Box wagons. In case of four wheeler gang comprises of 5 wagon loaders @ 4.5 M.T. per workmen. In case of the box wagon the gang comprises of 12 wagon loaders @ 4.5 M.T. As soon as the railway		
420.	Rameshankar	Rajdeo			
421.	Surjdeo Sao	Sita Ram Sao			
422.	Bhikhari Sao	Tribeni Sao			
423.	Brita Sao	Mukhalal Sao			
424.	Nameshwar Yadav	Nanha Yadav			
425.	Birja Sao	Balkeshwar Sao			
426.	Jaganath Sao	Balkeshwar Sao			
427.	Madho Sao	Manika Chand Sao			
428.	Kanchi Thakur	Sita Thakur			
429.	Jagdish Sao	Keshwar Sao			
430.	Chilitra Sao	Bskumar Sao			
431.	Lalmunia Ram	Jagdeo Ram			
432.	Suresh Singh	Kailu Singh			
433.	Binod	Bhagwat Pathak			
434.	Umashankar Yadav	Sakaldeo Yadav			
435.	Bhagwan Yadav	Sakaldeo Yadav			
436.	Shree Choudhary	Kishun Choudhary			
437.	Brija Choudhary	Ramlal Choudhary			
438.	Kishun Choudhary	Bilat Choudhary			
439.	Deonath Noniya	Jhari Noniya			
440.	Dhirendra Singh	Ram Chaltar Singh			
441.	Nirenjan Chouhan	Kishor Singh			
442.	Krishna Chouhan	Sardhan Chouhan			
443.	Nakul Ram	Mugen Ram			
444.	Laxman Ram	Banarai Ram			
445.	Fulpatia Devi	Nirendhan Choudhry			
446.	Pankuri Devi	Bhuneswar Chouhan			
447.	Bulhan Singh	Rambashen Singh			
448.	Bideswar Sao	Bishun Sao			
449.	Kameshwar Singh	Dukhi Singh			
450.	Hari Gope	Dasrath Gope			
451.	Bandhan Kumar	Saheb Kumar			
452.	Rustan Ansari	Buthni Ansari			
453.	Birsu Munda	Jhabra Munda			
454.	Somra Uraw	Labra Orawn			

wagons are placed at the siding they have to be loaded and despatched promptly within the prescribed time as in the case of delay the colliery has to pay demurrage to the railway. The rake comprising the railway wagons are placed at the railway siding in large number at one time. The strength of the workmen on the record of the colliery is inadequate for loading of coal in the railway wagons in the short period and hence the management has employed the workmen under reference as wagon loaders on permanent basis. As no record of employment is maintained by the management in respect of the workmen under reference, the amount of coal loaded by them is shown in the management's record against any one of the workmen on the record of the colliery working in the same gang and thereby this manipulation artificially inflates the amount of coal loaded by the workmen on record so much so that the amount loaded appears to be an absurd proposition. As the records of employment of the workmen under reference are not maintained, they are not paid their wages directly by the management and their wage is shown in the management's record against the name of the workmen on record of his group who is credited with the actual work done by the workmen under reference of group. The wages of all the workmen under reference in each gang is handed over to the Dargal Sirdar of each gang who makes the payment to the workmen under reference of that group. At all levels and stages there are illegal cuts and gratification in the wages of the workmen under reference. The result being that the individual workmen under reference get only a fraction of the lawful wages for the honest work done by them. The said system operated with the active connivance, collusion of the officers of the colliery, loading supervisors, Bill Clerks and Dargal Sirdars. In order to conceal the relationship of master and servant between the management of Sirka Colliery and the workmen under reference the management does not maintain any record of their employment. The said relationship of master and servant is established because the workmen under reference are working as wagon loaders permanently and continuously for a period of more than 5 years. They are working inside the colliery premises at the railway sidings of Sirka Colliery and they work with the tools provided by the management and the coal which they load on the railway wagons belong to Sirka Colliery. They directly perform the work of the management of Sirka colliery. They work side by side along with the workmen on record of the colliery and their work is directly supervised by loading inspector and other competent persons authorised by the management in this regard. The workmen under reference perform their jobs under direct control and supervision of the management and they have to carry out the job to the entire satisfaction of the management. The above facts will show that the workmen under reference are the employees of Sirka Colliery and the management is obliged under the law to maintain proper register and documents in respect of their employment to pay them their wages directly at the rate provided under the NCWAs. The statistics maintained by the management regarding the loading of coal into railway wagons in respect of certain period will show that the average amount of coal shown to be loaded by each workmen is abnormally high and several times more than the work load of 4.5 M.T. fixed by NCWAs. It will appear that in some cases individual workmen on record have been shown to have achieved workload of even 22 M.T. per day which is a manipulated figure as it is humanly impossible to load 22 M.T. of coal in a railway wagon by individual workman in 8 hours working day. The statistics maintained by the management regarding the workmen in reference that the amount of work shown against a workman on record is artificially inflated as it is also added to it the amount of work performed by one or more of the workmen under reference.

A complaint was filed by the union before the RLC(C), Dhanbad and thereafter a team consisting of the LEO(C), Hazaribagh, Dhanbad and Ibaria jointly visited Sirka Colliery on 4-5-84. On the basis of spot verification and examination of workmen engaged in the job of wagon loading at the East and West Sirka railway siding established that

the workmen under reference were working as Wagon loaders during their visit. On the basis of the said enquiry by the team of LEO(C) a criminal prosecution was started against the officers of the management for the violation of the provision of the Payment of Wages Act, 1936. On the above plea it has been prayed on behalf of the workmen that the management be directed to treat the workmen under reference as their employees of Sirka Colliery and to maintain their proper service record and to pay them directly their statutory wages and all the benefits to which they are entitled.

The case of the management is that the reference is not maintainable inasmuch as it does not involve an industrial dispute within the meaning of Section 2(k) of the I. D. Act. There was never any relationship of employer and employee between the management of Sirka Colliery and the workmen under reference and as such the workmen under reference are not workmen under Section 2(s) of the I.D. Act. The sidings of Sirka Colliery where the wagons are loaded do not come within the purview of the definition of "mine" as contemplated under Section 2(j) of the Mines Act and the Central Govt. is not the appropriate Govt. for the same. The persons in the reference order are not persons employed in a mine and as such the Central Govt. is not the proper Govt. The Central Govt. has no authority or jurisdiction to make any direction directing the management to follow certain procedures and maintain statutory register under the purported exercise of its power under Section 10 of the I.D. Act. Under Section 10(1) of the I.D. Act appropriate Govt. exercises its administrative function but in the present case, Central Govt. has exercised judicial powers or quasi judicial powers not vested in it and has purportedly decided that the persons referred to in the reference order are wagon loaders of the management. The workmen did not raise any dispute with the management nor any demand was made on it before taking up the matter with the conciliation machinery.

The Parliament enacted Coal Mines (Nationalisation) Act, 1973 under which the coal mines were nationalised including Sirka Colliery. In November, 1975 the Central Govt. reorganised the coal industry in the public sector and Sirka Colliery then became a part of CCL and the CCL became a subsidiary of the holding company, namely, Coal India Ltd. At all relevant times Sirka Colliery was having two railway sidings for despatch of coal. The sidings were known as (1) West Sirka (2) Proper Sirka Siding (East Sirka Siding). During 1976 and May, 1983 coal was being despatched in a very large quantity by loading on trucks brought by the consumers besides despatch by railway wagons. The consumers used to make their own arrangement for loading of trucks. From June, 1983 the sale of coal by trucks was almost discontinued although to a small extent it continued even thereafter. At all relevant times the management had 336 wagon loaders of its relevant loading of coal into the wagons and they were on the company's roll. The wagon loaders are piece rated workers in Group III and their normal workload is fixed as 4.5 M.T. per working day. The arrangement made for wagons loading at the two railway sidings of Sirka Colliery are so good that the wagon loaders are able to achieve much higher output than the normal workload prescribed for them. There is hardly any lead. Out of the said 336 wagon loaders on the company's record over 136 are usually posted at proper Sirka Siding and the remaining wagon loaders are posted at West Sirka siding and sometimes the numbers are adjusted between the two railway sidings according to the requirement from time to time. The wagon loaders under favourable circumstances earn their high wages on account of their performing work beyond normal work load prescribed for them under NCWA. The sponsoring union had sent a letter dt. 13-7-84 to the RLC(C), Dhanbad making false allegation that the 470 persons in reference are working and doing the job of wagon loading at Sirka Colliery along with other workers in fringe of piece rated basis and that their wages are being booked in the name of other workmen and they are not being paid directly. On receipt of a letter from the RLC(C), the management denied the charges and

the allegation of the union. It was stated by the management that when the local sale of coal was in existence in the colliery, some outsiders were being engaged for truck loading by the consumers. Since these persons had no work some time after despatch of coal through trucks were stopped, an attempt was made by the sponsoring union to induce them into the services of the management by various illegal methods. The said persons referred in the reference had never worked in the job of wagon loading for the management and as such there was no question of payment of any wages directly to them. The management was maintaining the necessary registers in respect of its workers who were actually employed in the railway siding. The RLC(C) Dhanbad on 4th and 8th of May, 1984 deputed his LEO(C) to visit Sirka Colliery and submit their report. The management was never informed of the inspection of the railway sidings by any officers or regarding any enquiry to be made by them. The LEO(C) had taken away some attendance registers and wages sheets for certain period. According to the management it is stated that at the time of the visit of the LEOs Shri Shivanand Choudhury, Vice President of the United Coal Workers Union of Sirka Branch furnished a list of 300 persons to the LEOs stating that they were working in Sirka colliery siding as wagon loaders. The LEOs did not make any enquiry from any person in this respect and the LEOs took that list given by Shri Shivanand Choudhury as a correct list and started a criminal proceeding against the officers of the management under the payment of wages Act. There is disparity between the claim by the union in raising the present dispute and the complaint made by the LEO(C). The RLC(C) and his subordinates did not deal with the matter with an open mind and just manner and they were actuated by ulterior motive to favour the sponsoring union at the cost of the management.

The strength of wagon loaders already employed in Sirka colliery is more than adequate. Some wagon loaders numbering 90 who were rendered surplus in their adjoining Religara colliery due to closure of railway siding, were transferred to Sirka colliery in the month of May, 1985. The work of wagon loading at Sirka siding is being done only by the workman on record of the management. The management do not have any Dangal Sirdars and payment is not made through such Dangal Sirdars. The workmen in reference were never given any appointment by the owner, Agent or Manager of Sirka colliery nor any of the workmen and have not worked as wagon loaders, they are entitled of the mine.

The management has a scheme that workers who are disabled due to injury or disease on permanent basis resulting into the loss of employment would voluntarily retire subject to employment being provided to one of their dependents. Under such scheme 38 regular wagon loaders in the employment of the management voluntarily retired in July, 1985 and in their place 20 persons whose names are in the reference were already given employment as dependents of the previously employed regular wagon loaders of the management, the list of which is given in annexure 5 of the W. S. of the management. Under the circumstances it has been submitted on behalf of the management that as the workmen in reference are not workmen of the management and have not worked as wagon loaders, they are entitled to no relief.

The points for determination in this case are :-

- (1) Whether the Central Govt. is the appropriate Govt. to make the present reference.
- (2) Whether the subject matter of the dispute is in the nature of industrial dispute.
- (3) Whether a demand was made by the workmen in respect of the matter involved in the dispute.
- (4) Whether the concerned persons are the workmen of Sirka colliery
- (5) Whether the management should pay wages to them directly and whether the management should maintain their records of employment.

The management have examined 6 witnesses and the workmen have examined 11 witnesses in order to prove their respective cases. The documents filed on behalf of the management have been marked as Ext. M-1 to M-18 and the exhibits on behalf of the workmen have been marked as Ext. W-1 to W-10.

The first objection raised on behalf of the management is that the Central Govt. is not appropriate Govt. to make a reference. It is further submitted that under section 2(a) of the I.D. Act the State Govt. is the appropriate Govt. in relation to all industrial dispute except those that are enumerated in Section 2(a)(i) of the Act. On perusal of Section 2(a)(i) of the Act it will appear that the Central Govt. is the appropriate Govt. in respect of a "Mine". It is submitted on behalf of that management that as such if the Railway siding is "Mine" then alone the Central Govt. would be the appropriate Govt. "Mine" has been defined in Section 2(lb) of the I.D. Act to mean a mine as defined in clause (j) of sub-section (1) of Section 2 of the Mines Act, 1952. The definition of Mines in the mines Act in clause 2(j) runs thus:-

"Mines means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes:-

- (vi) All adits, levels, planes, machinery, railways, tramways and sidings in or adjacent and belonging to a mine".

The management has raised only the question whether the railway siding are adjacent to a mine so as to cover it under the definition of mine. The meaning of word "Adjacent" in the dictionary is 'lying near or close to', 'neighbouring' 'not widely separated'. The learned counsel for the management has tried to explain by referring to the evidence of the witnesses that Sirka Railway sidings are not adjacent to the mine and as such it will not be covered under the definition of Sirka colliery are sent for loading to West Sirka colliery siding and that the distance between the open cast mine and to proper Sirka railway siding and the distance between the 2 K.M. On the basis of this evidence it is submitted on behalf of the management that the mines and the siding cannot be said to be adjacent to a mine and as such Sirka railway siding submitted on behalf of the workmen that the management's interpretation seeks to read the word "Adjacent" used in clause (vi) as having only the same meaning as adjoining. WW-1 stated that both the siding of Sirka colliery are on the land of Sirka colliery and that the entire loading of coal in the wagon at both the siding of Sirka colliery are done manually by wagon loaders which is an admitted fact. In a mine which is situated on an extensive land railway sidings cannot be constructed adjoining the mines for many technical reasons and as such the distance of 1 or 2 K.M. between the mines and the sidings is not such so as to conclude that they are not adjacent to the mine. The definition in clause (V) itself shows "siding in or adjacent to and belonging to a mine". It is clear therefore that the sidings may be in the mine itself or it may be adjacent to the mine. Admittedly the two railway sidings belong to the Sirka colliery and as they are adjacent to the mines, I hold that the two Sirka sidings are covered by the definition of mines.

It will appear from a case reported in 1974 LAB I.C. page 805 that loading and unloading of iron ore is an activity connected with mining industry within Section 2(h) of the I.D. Act and hence the Central Govt and not the State Govt. is the 'appropriate Govt.' within Section 2(a)(1) of the I.D. Act to refer a dispute between to employees and the management. The definition of 'appropriate Govt.' has already been stated above. The activity of loading of coal from Sirka mines to the Sirka sidings is one to which Section 2(a)(1) of the I.D. Act would apply and since the loading operation at the sidings of Sirka colliery is an activity connected with the mine, the Central Govt. would

be the appropriate Govt. In view of the above I hold that the reference made by the Central Govt to the Industrial Tribunal is within the jurisdiction of the Central Govt.

It is submitted on behalf of the management that the issue referred to the Tribunal in the order in the schedule of reference is not in the nature of industrial dispute. The argument is further expanded by the management by submitting that the question as to whether the employer should maintain any record relating to the workmen or not, cannot be said to involve the terms or condition of service to constitute an industrial dispute within the meaning of Section 2(k) of the ID Act. The definition of industrial dispute in section 2(k) means any dispute or difference between the employers and workmen which is connected with the employment or the terms of employment or with the conditions of labour of any person. The case of the workmen in reference is that they are working as Wagon loaders under the management of Sirka colliery and as such the maintenance of their service records is the condition of their labour. The workmen in reference allege that the management is not maintaining any paper regarding their services although the management is maintaining all such records in respect of the wagon loaders on the roll of the company. I had discussed this matter in my earlier order dt 23-6-86 while deciding the preliminary points raised by the management in the W. It will appear that the maintaining of records by the management depends on the facts whether the wagon loaders in reference are the workmen of the management. If the wagon loaders in reference are the workmen of the management it is quite obvious that the records of employment are to be maintained by the management and if no such register is maintained the very basis of employment of the wagon loaders will have no evidence to show that they are the workmen of the management and as such it becomes almost a condition of service that their records of employment be maintained by the management who are alleged by the workmen in reference to be their employers. This is certainly a dispute between the employers and the workmen connected with their alleged employment and as such the matters referred to in the reference is an industrial dispute. In the above view of the matter I hold that the Central Govt is the appropriate Govt having jurisdiction to refer the matters in dispute included in the schedule of the order of reference which has been sent for adjudication to this Tribunal.

Yet another objection of the management is that the workmen had made no demand to the management in respect of the dispute which has been referred to the Tribunal for adjudication. I think the said objection made on behalf of the management does not stand on a sound footing. The workmen have tried to show vide Ext W-1 dt 24-8-83 that the workmen had made a demand to the management. This document has been proved by the Secretary of the sponsoring union WW-10. He has, no doubt, stated in his cross-examination that he has no document with him to show that the original of Ext W-1 was received by the management. Another document is Ext W-2 dt 8-5-84 addressed to the ALC(C) by the union. Admittedly no copy of Ext W-2 was sent to the management. Ext M-1 dt 26-4-84 is a letter from the RLC(C) to the management with a copy to the union requesting to furnish the particulars of workers in 5 copies. It appears therefore that the RLC(C) had received the letter of the workmen dt 8-5-84 and had requested that the union should furnish the particulars in 5 copies in proforma supplied. It is clear therefore that the workmen had sent the letter dt 8-5-84 to the RLC(C) and that the RLC(C) had sent a letter dt 8-5-84 to the Chairman-cum Managing Director of M/s CCL and the Project Manager, Sirka colliery. It is clear therefore that the management had been informed of the demands being made by the workmen. Moreover, the management's contention that no demand was made by the workmen is now irrelevant in view of the fact that there was a conciliation proceeding before the Conciliation Officer in respect of the demands of the workmen in which the management participated and both the management and the union put forth their respective case in writing and had made their submissions in support of their respective cases. The management therefore had become fully aware of the matter which was being demanded by the workmen. In the above view of the matter I hold that formal demand had

been raised by the union before the management and that the objection raised on behalf of the management does not appear to be correct.

According to the case of the Workmen it will appear that there are 2 large bodies of workers engaged in the loading of coal at the Sirka Siding. One is the regular work force of the management which we shall refer hereafter as workmen on the roll and the other who are employed in the loading of coal at the Sirka Siding but there is no record of their employment maintained by the management and they are hereafter described as workmen in reference. It is the case of the workmen in reference that the management do not maintain their record regarding their employment and they are not paid wages equal to that of the wages which are being paid to the workmen on record. The workmen in reference are paid through the workmen on the record from the wages received in their names. Admittedly there is no record of any employment of the 470 workmen in reference and none of the records of the management have shown their employment as Wagon loaders. According to the management as stated in para-12 of the management's W, S the management claims that the number of wagon loaders engaged in the loading of coal on the wagons at the Two Sirka Railway sidings was 336 wagon loaders at all relevant times. It is submitted on behalf of the management that the said numbers of 336 wagon loaders on the roll of the company is more than adequate and is such there was no necessity of further wagon loaders and the workmen in reference never worked in Sirka sidings as Wagon loaders. The workmen in reference have adduced oral evidence of WW-3, WW-5, WW-6 and WW-7 who are the workmen in reference and have further examined WW-2, WW-8 and WW-9 who are wagon loaders on the company's roll. Besides that they have also examined the LEO(C), WW-11 and have produced his inspection note Ext W-6. The workmen have also tried to establish by arithmetical calculation that the management actually required much more wagon loaders than 336 wagon loaders on the company's roll as asserted by them on the basis of the coal despatch from Sirka Colliery sidings, absenteeism of the workmen etc.

Before discussing the evidence and the circumstances on the above matters I would first like to state briefly the procedure for loading of coal at the Sirka sidings which have been disclosed from the evidence in the case. The parties are almost agreed on the point of the procedure for loading of coal on the wagons at the Sirka Siding. The only point of difference between the workmen and the management in respect of the procedure for loading is in respect of quantum of stacking of steam coal. It is admitted and the same will be clear from the evidence of the witnesses that the coal brought from the pit head and dumped at the railway siding is called ROM (Run of Mine). The ROM is a mixture of 40 per cent Steam coal and 60 per cent of Slack coal. According to the workmen before the coal can be loaded in the Railway wagon for despatch, steam coal has to be screened from the ROM and stacked in separate heaps and the slack coal is left behind as residuary which is stacked into heaps. It is asserted on behalf of the workmen that the screening and stacking are the 2 complete distinct and separate operations than the wagon loading and that screening and stacking are the pre-requisites before loading of coal into wagons as ROM is never despatched from the Sirka colliery. It has also come in the evidence that in one rake only one variety of coal i.e. either steam or slack coal is loaded. WW-2 has stated that the wagon loaders are paid for stacking steam coal also. MW-2 at page-8 of his deposition has stated that from the stage of ROM received at the siding there are two processes or operation namely stacking and screening and secondly loading and if a loader fulfils the screening and stacking of 4.5 tonnes of coal he satisfies the minimum work load. It is clear from the evidence of the MW-2 that when ROM is received at the sidings first the stacking and screening of coal has to be done and thereafter the second operation, namely of loading of coal in the wagons is done. It will also appear that a wagon loader fulfils the minimum work load of 4.5 tonnes of coal if he either screens and stacks 4.5 tonnes of coal or he loads 4.5 tonnes of coal. The management has referred to the evidence of WW-1 at page 6 of his deposition, WW-1

has stated that the steam coal is loaded in the wagons through baskets and the baskets are filled with coal by means of fork, shovel and that the small pieces of steam coal known as slack coal is left below and the slack coal left over is stacked at the siding and the wagon loaders are paid for stacking of slack coal. Earlier WW-1 has stated that stacking is a distinct and separate operation than wagon loading and the same fact has been stated by MW-2. The case of the management is that when wagons for loading steam coal are not placed then stacking of steam coal is done and this stacking is separately reckoned as work done by a wagon loader in the wage sheets but if the wagons for steam coal are placed at the siding at the place where R.O.M. is dumped no stacking of the steam coal is involved. It is stated that the coal is lifted by fork, shover and put in the baskets, and that the bigger lump of steam coal are separated from slack coal and thereafter it is filled in the basket and loaded on the wagons. MW-2 at page-8 has stated that it is not known as to when or at what time the rakes will be supplied by the railways and it is also not known from before as to what variety of coal has to be loaded on the rake which has to be placed on the siding on the particular day. MW-2 at page 3 has stated "when the rakes are placed the railways instruct whether slack coal or steam coal has to be loaded on the rakes" as such it cannot be pre-conceived that the rake is being placed at the sidings for loading of steam coal and as such the case of the management that when R.O.M. is dumped at the sidings and if a rake for steam coal is placed the steam coal is directly loaded in the wagons after picking up the big lumps of steam coal from the R.O.M. does not appear to be very convincing. Moreover, the submission made on behalf of the management is not in accordance with the actual evidence adduced on behalf of the management itself. Even if accepting the management's case on the point it will be only a very insignificant part of the steam coal being directly loaded from the R.O.M. without stacking and screening the steam coal from the slack coal. This controversy is important for the purpose of showing whether 40 per cent of the steam coal are screened off and separately stacked and this would increase the work load of the wagon loaders. The evidence which has been established show that for loading 100 tonnes of coal (Steam and Slack) it is necessary that 40 tonnes of steam coal had earlier been screened and separately stacked and as such when 100 tonnes of coal is loaded in a wagon it is implicit that the total workload of stacking plus loading carried out by the workmen is 140 tonnes and this it would thus increase the work load of the wagon loader from the work of loading of coal only in the wagons.

According to the management the regular work force was 336 at all relevant times. The management, however, in evidence has tried to show that till July, 1983 there were 310 wagon loaders, from July, 1983 335 wagon loaders and from May to June 1985 440 wagon loaders. But we are concerned with the number of the wagon loaders at the time of the dispute or say at the time of reference in June 1985. As it is admitted by the management that at the relevant time the number of the wagon loader was 336, there is no need to go into further details of the evidence in the case and I hold that there were 336 wagon loaders on the company's roll at the relevant time of the dispute in this case.

It was tried to be shown by the management by arithmetical calculation that the existing work force of the wagon loaders on their record was more than the adequate for their work and that if 470 workmen's name in the reference are added it would lead to the reduction in the workload to much less than the normal of 4.5 tonnes for per wagon loader per day. The arithmetical calculations made by the management did not consider some of the very important premises which would change the result of the calculation. The management did not take into consideration in their arithmetical calculations regarding the account of stacking of 40 per cent steam coal from the R.O.M. If 100 tonnes of steam and slack coal are shown to have been loaded into railway wagons the total work load would be 100 tonnes of coal loaded plus 40 tonnes

stacking of steam coal and the total work load would be 140 tonnes. The work load of 40 tonnes of stacking of steam coal was not calculated by the management. The management's calculation regarding the effective work force was based on the rate of absenteeism at the rate of 15 per cent but the evidence on the record which has been established from the management's own record is that the rate of absenteeism among the wagon loaders was much but in any case the absenteeism was not less than 25 per cent. (Vide Ext. M-18/9). If the calculation is made taking the rate of absenteeism as 25 per cent the calculation made on behalf of the management will itself show that the work load was much higher than shown by the management. It is true that there are many factors which come in the way in the calculation regarding the number of regular work force for wagon loading and the arithmetical calculation made cannot take us to a definite calculation. It will only lead to an approximate result. The management has also made criticism regarding the arithmetical calculation made on behalf of the workmen. It has been stated that the workmen have made their arithmetical calculation on the basis of workload of 4.5 tonnes per wagon loaders per working day. According to the management the workload of 4.5 tonnes of a piece rated wagon loader is only the minimum work load prescribed so that the wagon loader may earn one day's wages but the workmen are given incentive by way of more payment of wages if they work more than the minimum fixed work load. The management say that the wagon loaders used to load much more than the minimum workload of 4.5 tonnes in order to earn more wages and as such the calculation made on behalf of the workmen at the rate of 4.5 tonnes per wagon loader cannot reach us to a correct calculation. In my opinion the said submission made on behalf of the management appears to be quite sound. A calculation was made by the parties regarding the time taken in loading of basket of coal in the wagon. There are so many factors which have to be considered regarding the time taken in loading the coal by the wagon loader in the wagon. Man is not a machine so as to make the calculation a perfect one. The calculation of time taken in loading of coal per trip by wagon loader cannot be accurate and it may take us to some approximate timing taken in the loading of coal. Thus the attempt made by either of the parties to arrive at a certain conclusion regarding the adequacy of the company's work force in respect of the coal despatched from the sidings cannot be accepted as gospel truth. However, on close scrutiny of the evidence, circumstances and the facts it appears that the work force of 336 wagon loaders for loading the coal of the Sirka colliery from the Sirka sidings was inadequate and that some more wagon loaders must have been engaged to complete loading of coal at the Sirka sidings.

The workmen have calculated the work force on the basis of Ext. M-17, even in Ext. M-17 for the years 1981 to 1985 and have calculated the same in their notes of argument to show that the management required wagon loaders more than the wagon loaders on the roll of the company. I have already stated about the loop holes in the arithmetical calculation made by either of the parties, but I have already stated that the calculation figures do not least indicate that the management require more wagon loaders than their own figures on the roll.

In connection the workmen have examined WW-3, WW-5, WW-6 and WW-7 who are among the persons named in the reference. They have all stated that they are working as wagon loaders at Sirka Sidings since a few years but they are not in the records of the management and that they are not paid directly by the management but their wages are paid through the wagon loaders on the record of the management working in the group along with some workmen in reference. Admittedly where, there is no document in support of the facts being stated by these witnesses. They are supported by the oral evidence of WW-2, WW-8 and WW-9 who are admittedly wagon loaders on the roll of the company. WW-4 is a shole picker who was formerly working as wagon loader and he has also supported the case of the workmen in reference. On the other hand the management could not examine even a single wagon loader to show that the facts being stated by the workmen's witnesses were false. The truth of the evidence of the

evidence of the witnesses has been tested by the management by calling into them detailed cross-examination but what has been elucidated is that the witnesses are quite familiar with working of the officers of the Sirka sidings. I do not find any material to discredit the fact that some of the persons named in the reference are working as wagon loaders at the Sirka sidings. It will appear from the evidence that the wagon loaders on the rolls of the company are getting no benefits in the shape of their enhanced wages because of the work of loading being done by wagon loaders other than the wagon loaders on the roll of the company. It has come in the evidence of WWs that the workmen in reference are paid less as wages for loading coal and the excess of the amount, actually goes in the share of the wagon loaders on the roll of the company. It is quite possible that none of the wagon loaders on the company's rolls are coming forward in support of the case of the management as they would be incurring a loss in their wages if they deny that the workmen in reference are not working as wagon loaders.

Most important piece of evidence and almost the trump card of the case of the workmen in reference is the evidence of the LEO(C) Shri Vasisth, WW-11 and Ext. 6 which is the statement of the wagon loaders taken by WW-11 on 4-5-84. It will appear from the evidence of WW-11 who is the LEO(C) of Hazaribagh that as LEO(C) he is also an Inspector under the Payment of Wages Act and that Sirka colliery is within his jurisdiction. He has stated that on 4-5-84 he accompanied by Shri Gopaljee, LEO(C) Dhanbad and Shri N. S. Panwar, LEO(C) Jharla had inspected Sirka colliery on the direction of the RLC(C), Dhanbad. The said team had been formed by the RLC(C), Dhanbad for inspection and as such it cannot be said that the LEOs were some how interested in the inspection of Sirka colliery or were prejudicial against the management and hence they had made inspection of the Sirka sidings. WW-11 has stated that at about 10.00 A.M. on 4-5-84 he contacted the Sr. Personnel Officer (W-1 Shri S. R. Choudhury) and told him of his intention to inspect the Sirka sidings and requested for his cooperation but MW-1 expressed his inability to cooperate and told him to come for inspection on some other day. It will appear from the evidence of MW-11 that he inspected some contractors for sometime and at about 4 P.M. he along with 2 other LEOs inspected first the Sirka proper siding and then Sirka West Siding. He has stated that he found the wagons placed in the siding and many loaders loading coal in the wagons. The wagon loaders told him that they are working as wagon loaders since 5 to 10 years but they are not directly paid their wages and that their names are not included in the Form B Register of the management. They also told him that they are getting less wages. He has stated that he noted their statements in Ext. W-6 and took the LTI of the wagon loaders in support of the fact that the statements as taken down by him were the statement of Wagon loaders. WW-11 had taken the statement of about 300 wagon loaders at the 2 Sirka sidings. He has stated that there were other wagon loaders working in the loading of wagons but he did not record their statement as it had become very late and it was about 11.00 P.M. Ext. W-6 is dt. 4-5-84 and at the top of it a joint statement of the workmen is written and thereafter the names of the wagon loaders is stated Daugalwise. To the end of Ext. W-6 there is signature of LEO Shri Gopaljee and LEO Hazaribagh Shri Vasisth, WW 11. The third LEO(C) does not appear to have signed in Ext. W-6. WW-11 has stated that upto serial no. 4 in page of Ext. W-6 the writing is in his pen, from Sl. No. 3 to Sl. No. 95 the writing is in the pen of Shri Gopaljee, Sl. No. 96 to Sl. No. 214 is in the writing of Shri Panwar and then again from Sl. No. 215 till the end i.e. Sl. No. 300 is in the Pen of WW-11. Thus this evidence of WW-11 shows that all the three LEOs were present at the Sirka Sidings and they had all participated in the taking of statement and the LTI of the wagon loaders actually loading the wagons at the Sirka Sidings. On comparison of the names of the wagon loaders in Ext. W-6 and the names of the workmen given in the reference it will appear that 110 names of wagon loaders in Ext. W-6 tallies with the names of the workmen named in the reference. The comparative Sl. Nos. of the workmen given in the LEO's list and reference order list are stated in Chart-6.

It is clear therefore that 110 of the workmen named in the reference were actually found working in the work of loading at the Sirka sidings by the LEOs. It appears that the LEOs had noted down the names of 300 persons who were working as wagon loaders at the time of inspection but the names of the rest are not stated in the reference order. The explanation given on behalf of the management is, but those extra persons were not regular work force employed as wagon loaders and as such their names are not stated in the order of reference. Whatever might be the reason, the fact remains that a large number of wagon loaders besides the wagon loaders on the roll of the company were actually found loading coal at the 2 Sirka siding, and out of them atleast 110 are those whose names are mentioned in the order of reference.

Para-18 of the W.S. of the management itself stated that the sponsoring union sent a letter dt. 13-7-84 to the RLC(C), Dhanbad making false allegation that the 470 persons referred to in the annexure to the reference order are working and doing the job of wagon loading at Sirka colliery along with other workers in gang on piece rated basis and that their wages are being booked in the name of other workmen and they are not being paid directly and the registers relating to their employment are not being maintained. In para-19 of the W.S. of the management it is stated that on receipt of a letter from the RLC(C), Dhanbad the management denied the claim. From para-20 of the W.S. it will appear that the RLC(C), Dhanbad had deputed on 4th and 8th of May, 1984 even before the union had written to him on 13-7-84 his four LEO(C) to visit Sirka colliery and submit their report. It is further stated that the management was never informed of the inspection by these officers of any enquiry to be made by them. It is also stated that the LEOs had taken away some attendance register and wage sheets for certain periods and at that time Shri Shibanand Choudhury, Vice President of United Coal Workers Union of Sirka Branch who was the local representative of the sponsoring union had furnished a list of 300 persons claiming that they were working in Sirka colliery siding as wagon loaders. The said Shibanand Choudhury has been examined as WW-1 in this case and he has denied to have supplied the list containing 300 persons working in Sirka colliery sidings. WW-1 it appears was present at the time of inspection on 4-5-84 and he had actually signed at the end of Ext. W-6 but that does not mean that he had supplied the list of 300 persons. It appears from the evidence of WW-11 and Ext. W-6 that the said Ext. W-6 was prepared in the writing of three of the LEOs at the Sirka sidings, and that there is no denial that the staff writing are not in the pen of three LEOs. Thus it cannot be said that WW-1 had supplied the list in Ext. W-6 to the LEOs.

MW-11 was a statutory person. The management has shown no reason as to why WW-11 would be giving a false report against the management and will be filing a false prosecution against the officers of the colliery. One could have understood the interest of WW-11 if it had been shown that he had any grudge against the officers of Sirka Colliery or that he was in any way interested in the sponsoring union or the workmen whose names he has stated in Ext. W-6. I do not find any reason to disbelieve WW-11 and I hold that he is a truthful witness and that he had seen wagon loaders loading the wagons at the time of his inspection whose names are stated in Ext. W-6.

The case of the management is that the loading work had been completed on 4-5-84 by 5.30 P.M. and as such WW-11 or his other companion LEOs did not inspect the Sirka siding. In support of the said fact the management have examined MW-1 Shri S. R. Choudhury, Sr. P.O. posted in Sirka Colliery on 4-5-84. He has stated that he had met the LEO(C) Shri Vasisth on 4-5-84 at 5.30 P.M. in his office and that he told him that as the loading work had already been completed there were no workers at the siding

and as such there can no inspection that day and thereafter LEO left the place saying that he would come some other day. Thus according to MW-1 Shri Vajsth had not expected the siding on 4-5-84 as loading work had already been completed by 5.30 P.M. MW-1 who was sitting in his colliery office from where the Sirka west siding is not visible and as such it was not possible for him to say that the loading work had already completed by 5.30 P.M. The most important document in this connection is Ext. M-12 which is the wagon placement register. It is disclosed from Ext. M-12 of 4-5-84 that on that date wagons were supplied at Sirka West Siding at 11.30 hours and at proper Sirka siding at 12.15 hours. The loading work could not have been commenced during the hot noon hours and would commence in the afternoon around 4 P.M. on 4-5-84 as it was a month of May when the noon time is very hot and as such it is quite possible as stated by MW-2 that during season at noon time the loading of coal was not done after the placement of the wagons at proper Sirka and West Sirka sidings at the noon time. This would further show that as the wagons were placed some time in the noon, the loading work could not have been finished by 5.30 P.M. as admittedly it takes about 7 to 8 hours to load the wagons. One of the witnesses MW-5 has stated that it takes 6 to 7 hours to load a wagon and according to MW-3 it takes about 8 to 9 hours to load a wagon. It will thus be clear that the loading work could not have been completed on 4-5-84 prior to 5.30 P.M. It is stated by the management that the loading hours at Sirka siding are from 6 A.M. to 6 P.M. so even according to the evidence of the management witnesses the wagons must have continued to be loaded till 6 P.M. as it was not possible to load the wagons between 12 Noon and 6 P.M. taking into consideration that no loading work is done at the peak hot noon hour of the summer months. It is clear therefore that MW-1 has not stated the truth about the fact that the loading of the wagon had been completed by 5.30 P.M. on 4-5-84.

A controversy has been raised between the parties regarding the loading hours at the sidings. According to the evidence of MW-2 MW-3, MW-5, MW-6 the loading hours at the siding are from 6 A.M. to 6 P.M. The workmen on the other hand submit that the loading hours are from 6 A.M. to 10 P.M. The importance of this loading hours is in the fact that WW-11 had seen the wagon loaders loading wagons till late at night even upto 11 P.M. on 4-5-84 and the management have tried to falsify him on the plea that the loading had completed by 5.30 P.M. WW-4 who is the management's shale picker has stated that if the wagons are placed late at the siding the loading may continue even after 10 P.M. The management could have produced the notice fixing the loading hours at the siding as the Sirka sidings are covered under the definition of 'mines' and the management was bound to have published the said notice about the fixing hours at the loading site under the Mines Act. The non-production of the said notice may be taken adversely against the management as being indicative that the notice did not show the loading hours between 6 A.M. to 6 P.M. and it may have shown the loading hours between 6 A.M. to 10 P.M. The workmen have filed a circular of the Eastern Railway Dt. 10-3-62 showing the introduction of 5 hours free loading time between 6 hours to 22.00 hours in order to support that the loading hours at the sidings are from 6 A.M. to 10 P.M. The said circular has not been exhibited and had only been marked at "Z" for identification and as such the said document cannot be used for the purpose of coming to a conclusion that the loading hours at the sidings are from 6 A.M. to 10 P.M. The fact that MW-11 had seen the wagon loaders loading the wagons at the Sirka sidings late in the night even after 10 P.M. supports the case of the workmen that the working hours at the sidings are from 6 A.M. to 10 P.M. That is what MW-11 had found the wagon loaders loading the wagons till late in the night on 4-5-84 the wagons had been placed at about midday and due to summer heat the work of loading must have stopped for a few hours.

The learned counsel for the management has led great emphasis on the inspection of the LEO(C) on 8th May, 1984 and 9th May, 1984 in order to show that WW-11 was not a reliable witness. It will appear from Ext. W-6 that WW-11 had inspected the Sirka sidings on 4th May, 1984 and had taken the statement and the L.T.L. of the Wagon loaders

engaged in the wagon loading. The inspection dated 8th May, 1984 is entirely of a different matter. WW-11 has stated in his evidence that he did not make any inspection of the Sirka siding on 8th May, 1984 and that he had visited the establishment of Sirka colliery in presence of Shri S. C. Choudhury, Sr. P.O. (MW-1) and had checked some registered and had found the irregularities which form the subject matter of the inspection note dated 8th May, 1984 and marked Ext. W-7 in the case. He also seized documents on that day and the seizure memo is Ext. W-8. The management's learned Advocate has, greatly stressed on the over-writings in the dates and it is stated that originally Ext. W-7 was dated 9th May, 1984 and that it was subsequently overwritten as 8th May, 1984. On perusal of Ext. W-7 it appears that there has been an over writing in the date which is explained by WW-11 by saying that as originally the date was wrong, it was corrected as 8th May, 1984. Whatever may be date of Ext. W-7 and Ext. W-8 that is besides the matter in controversy and the present case is based on the inspection note dated 4th May, 1984 Ext. W-6. The controversy regarding the change in the date of Ext. W-7 and W-8 is totally irrelevant so far inspection held by the LEOs on 4th May, 1984 as such so far the inspection by the LEO's of the Sirka siding on 4th May, 1984 is concerned the same is not affected by the inspection dated 8th May, 1984 or 9th May, 1984.

It has been submitted on behalf of the management that the evidence of the workmen in reference examined before the Tribunal is not acceptable. WVs has stated that they had some chits to show the work done by them and they kept rough accounts of the work done by them. Admittedly none of the chits have been produced by the workmen. It is apparent from the evidence of the witnesses examined on behalf of the workmen that the workmen in reference are completely illiterate and it appears that some indicative accounts were being maintained so that the workmen may understand as to what amount they have to receive for the work of loading done by them. It was not an account in the regular manner in which exactly the date, name, work done and the account of a particular wagon loader was noted in the chits. Even if those chits had been produced before the Tribunal probably it would have been improbable to come to any conclusion regarding the work done by the wagon loaders and the amount received by them. Those chits were just for the purpose to see that the workmen get the wages of the work of loading done by them and it was not such an important paper which had to be preserved. Moreover those chits were not in the writing of any of the officers so as to bind the management regarding the matters contained in the chit. Those chits were written by the workmen themselves and even if produced, the management would have been at liberty to criticise those chits as being manufactured for the purpose of the case. As such non-production of those chits cannot be taken serious notice in order to falsify the case of the workmen and the evidence of the WVs.

From what has been discussed above I have only come to the conclusion that at the Sirka Sidings there were wagon loaders working besides the management's wagon loaders on roll. It will appear from Ext. W-6 that 110 of the wagon loaders named in the reference were found engaged in the wagon loading by WW-11 on 4th May, 1984 besides other wagon loaders. Thus there is evidence to show that atleast those 110 wagon loaders were actually working at the Sirka sidings of the management. The evidence of WW-2, WW-3 shows the names of serial no. 180, 346, 333 and 331 of the reference who were working along with them but it will appear from Ext. W-6 that out of them only Babul who is at Sl. No. 333 of the reference was found working as wagon loader and his name is at Sl. No. 64 of LEOs Ext. W-6. The evidence of WW-4 shows Shyamdeo, S. No. 130 of the reference working as wagon loader and in Ext. W-6 (the LEO(C)) had found Shyamdeo working at the time of inspection and his name is at Sl. No. 231. WW-5 has named wagon loaders at Sl. No. 93, 61, 97 and 361 of the reference who were working as Wagon loader. But MW-11 had found only Sl. No. 97 and Sl. No. 361 working as wagon loader at the time of inspection and he has stated their names at Sl. No. 31 and 56 of Ext. W-6. WW-6 has named in his evidence wagon loaders at Sl. No. 60, 11, 13, 15, 10 and 16 of the reference out of whom the LEO(C) found Sl. No. 60, 11, 10 and 13 working as wagon loader at the Sirka sidings at the time of his inspection and has noted their names in Sl. No. 17, 18, 19 and 30 of Ext. W-6. WW-7 has named Sl. No. 54, 470 and 138 of the reference working as

loader but the LEO(C) found Sl. No. 476 and 130 of the reference working at the Sirka Siding at the time of his inspection and he has stated their names at Sl. No. 53 and 59 of the Ext. W-6. WW-9 named Sl. No. 254, 339 and 337 of the reference working as wagon loaders but the LEO(C) had found only Sl. No. 339 of the reference working as Wagon loader at the time of his inspection and he had stated his name at Sl. No. 249 of Ext. W-6. WW-1 named the workmen at Sl. No. 243 and 54 besides others who were not workmen in the reference but at the time of inspection of WW-11 workmen at Sl. No. 243 and 54 of the reference were not found working at the time of his inspection and as such he has not stated their names in Ext. W-6. Thus he find that out of the 23 names of workmen in reference stated by WWs, the LEO(C) found only 11 of them working as wagon loader at the time of his inspection. These 11 persons named in Ext. W-6 by WW-11 are out of the list of 110 wagon loaders who are amongst the 470 workmen in reference. The evidence of WW-1, WW-2, WW-3, WW-4, WW-5, WW-6, WW-7, WW-8 and WW-9 has disclosed the names of 23 of the workmen in reference out of whom 11 are in Ext. W-6. Thus we find that there is evidence in respect of 110 plus 12 workmen named in the reference and there is no specific evidence in respect of other workmen named in the reference.

Annexure 5 to the W.S. of the management gives particular showing the statement of persons offered employed under para 9.4.3 of NCWA-III at Sirka colliery as dependents of infirm wagon loaders. The persons who have been given employments are workmen at Sl. No. 175, 78, 67, 380, 306, 468, 38, 353, 87, 88, 35, 63, 272, 310, 13, 376, 318; 309; 253 and 298 of the reference. Thus it appears that 20 of the workmen named in the reference have already been given employment by the management and as such there can be no dispute of those workmen who have already been given employment as loaders. Out of these 20 persons named in Annexure-5 to the W.S. of the management the LEO had found Sl. No. 13, 35, 67, 272, 309, 468 and 55 working as loaders at the time of inspection. Thus out of 110 of the list of the LEO(C) seven out of them have been given employment by the management who were found working as wagon loaders and if the number of those 7 persons is taken out from 110 of the list of the LEO(C) it will appear that 103 of the said list who are named workmen in the reference are still not given any employment. Thus there is evidence to show that 103, of the list of the LEO(C) plus 12 of the wagon loaders whose names have been stated by the witnesses are working as wagon loaders and in whose favour there is sufficient oral evidence on the record. So far the other workmen named in the reference, I find no evidence at all so as to come to a definite finding that they are the workmen working at Sirka sidings. What I mean to say is that they may or may not be working as wagon loaders at the Sirka sidings but so far I am concerned I find no evidence on the record to come to a definite conclusion. It is not possible for me to conclude that those workmen named in the reference in whose favour there is no evidence on the record are wagon loaders working at the Sirka siding and as such I refrain from giving a finding in their favour.

Thus my definite finding is that Sl. No. 118, 209, 302, 338, 5, 4, 34, 333, 109, 150, 76, 10, 148, 343, 259, 448; 59; 466; 249, 267, 22, 94, 205, 8, 326, 411, 97, 149, 189; 342; 142; 429; 183; 381, 330, 327, 50, 159, 295, 366, 395, 442, 344, 339; 297; 103; 43, 95, 168, 457, 444, 141, 192, 470, 386, 96; 31; 73; 321, 385, 131, 238, 382, 37, 443, 190, 65, 106; 305; 155; 445, 80, 85, 293, 288, 60, 11, 18, 49, 287, 361; 138; 113; 24, 105, 62, 20, 417, 369, 33, 130, 356, 72, 296; 311; 415; 413, 187, 243, 100, 199, 318, 9 and Sl. No. 180, 346, 331, 93, 61, 15, 16, 54, 254, 337, 243 and 54 of the order of reference are the workmen of Sirka colliery working as wagon loaders since sometime and as such the management should pay wages to them directly which they are entitled. The management should verify the identification of the above persons by obtaining the certificate of their proper identification by the Mukhiya and the B.D.O./Circular Officer of the area concerned with affidavit of the above workmen of the reference. It is needless to say that the management must maintain their records of employment henceforth.

In the result, I hold that the above Sl. Nos. of the order of reference are the workmen of Sirka colliery of M/s CCL working as wagon loaders and the demand of United Coal Workers Union that they should be paid appropriate wages

directly by the management of Sirka colliery of M/s. C.C.L. and that their records of employment should be maintained properly by the said management is justified.

This is my Award.

Dated : 26-6-1987.

I. N. SINHA, Presiding Officer

[No. 1-20012/335/84-D.III(A)]

P. V. SREEDHARAN, Desk Officer

का. प्रा. 1957:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, अलगेमेन बैंक नेदरलैंड एन. वी., बंबई के प्रबन्धन में सम्बद्ध नियोक्ता और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या—1, बंबई के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार का 7 जुलाई, 1987 को प्राप्त हुआ था।

S.O. 1957.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the Algemene Bank Nederland N.V., Bombay and their workmen, which was received by the Central Government on the 7th July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY

Reference No. CGIT-26 of 1986

PARTIES :

Algemene Bank Nederland, Bombay-23.

AND

Their workmen.

APPEARANCES :

For the Management—Mr. R. S. Pai, Advocate and Mr. Damania, Advocate.

For the Workmen.—Mr. Waingaonkar, Advocate.

INDUSTRY : Banking STATE : Maharashtra

Bombay, the 23rd day of June, 1987

AWARD

The dispute referred for adjudication to this Tribunal is "Whether the action of the management of Algemene Bank Nederland N.V., Bombay in retiring Shri Chandradeo Pathak, an ex-sub-staff w.e.f. 1st July, 1984 is justified? If not, to what relief is the workman concerned entitled?"

2. The workman, Shri Chandradeo Pathak joined the opponent Bank on or about 1st May, 1950 as a Peon. In the bio-data form filled-in at the time when he was employed, his data of birth was recorded as 1-1-1922. On the basis of that date of birth, he was due for retirement on 1-1-1982. According to the workman, as the bio-data was filled-in on the basis of the oral instructions given by him, he and other workmen whose bio-data forms were similarly filled

in were directed by the management to produce written proof of dates of birth and accordingly, he supplied his date of birth by producing a horoscope which mentioned his date of birth as 30th December, 1926. It is further his case that on the basis of the said horoscope, the Manager of the Bombay Branch of the Bank ordered to enter the said date in the bank's record pertaining to him and on the basis of that entry, the date of his retirement was fixed as 1-1-1981. But he was prematurely retired from service from 1st July, 1984 at the instance of one Shri Nair, an officer working in the personnel department of the Bank.

3. The Bank denied that the workman was prematurely retired at the instance of Shri Nair. According to the Bank, the workman was continued after 1-1-1982 because they were awaiting guidelines from the Indian Banks Association in the matter of entries relating to date of birth and as the guidelines directed that the date of birth once furnished by an employee at the time of his appointment is not subject to any alteration, after receipt of these guidelines, the workman was retired from service, on the basis of his original date of birth. The Bank denied that on the basis of the horoscope tendered by the workman, the date of the retirement of workman was fixed as 1-1-1987.

4. Parties led oral and documentary evidence to substantiate their respective contentions. But at the fag end of the arguments, they settled the dispute amicably and filled a joint memo containing terms of settlement and prayed that an award in terms of settlement be passed and the reference disposed of accordingly. The terms of settlement as incorporated in joint memo are as follows :—

- “(1) The Algemene Bank agrees to pay to the workman Chandradeo Pathak an ex-gratia amount of Rs. 20,000/- (Rupees Twenty Thousand Only) in full and final settlement of all claims of the workman against the Bank including his claim for reinstatement, re-employment or otherwise
- (2) The said payment will be made to the workman at the main office of the bank on or before 25th June, 1987.
- (3) The workman declares that on receiving the said sum, he will have no further claims of any nature whatsoever against the bank either as demanded in the above Reference or otherwise.”

5. As stated in the joint memo, the settlement is fair and proper and is completely in the interests of both the parties. Under this settlement the Bank has agreed to pay to the workman, an ex-gratia amount of Rs. 20,000/- in full and final settlement of all claims of the workman against the Bank. Even on his own showing and on the basis of the date of birth furnished by him, the workman would have retired on 30-12-1986. Obviously, therefore, he would not have been reinstated in service even if he had succeeded in this matter. The only relief he could have obtained is his salary alongwith other consequential benefits for the period from 1-7-1984, the date on which he was retired till 30th December, 1986.

6. Hence award in terms of settlement.

M. S. JAMDAR, Presiding Officer

[No. L-12012/115/85/D.IV(A)]

Encl :—Settlement Copy.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, BOMBAY

Ref. CGIT No. 26 of 1985

Algemene Bank

AND

Chandradeo Pathak

May it Clear the Favourable Tribunal

The Algemene Bank and the workman concerned Shri Chandradeo Pathak have mutually settled the above dispute as per terms recorded hereinbelow. The said settlement is fair and proper and acceptable to both parties. It is prayed that this Humble Tribunal be pleased to make an award in terms of this settlement and dispute off the reference accordingly.

Dated this 23rd June, 1987.

For Algemene Bank

Sd/- Illegible.

Personnel Manager

Sd/- Illegible.

Advocate for workman

Sd/- Illegible.

Advocate for Bank

Sd/- Illegible.

Workman abovenamed

Terms of Settlement

- (1) The Algemene Bank agrees to pay to the workman Chandradeo Pathak an ex-gratia amount of Rs. 20,000/- (Rupees Twenty Thousand only) in full and final settlement of all claims of the workman against the bank including his claim for re-instatement, re-employment or otherwise.
- (2) The said payment will be made to the workman at the Main Office of the bank on or before 25th June, 1987.
- (3) The workman declare that as receiving the said sum he will have no further claims of any malice whatsoever against the bank either as demanded in the above reference or otherwise.

Dated this 23rd June, 1987.

For Algemene Bank

Sd/- Illegible.

Personnel Manager

Sd/- Illegible.

Advocate for the workman.

Sd/- Illegible.

Advocate for Bank

Sd/- Illegible.

Workman abovenamed

का. प्रा. 1958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, नेमस ई. सी. बोस एंड कं. (प्रा.) लि. परादीप के प्रबंधन से सम्बद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण उड़ीसा के पचाट को प्रकाशित करती है।

S.O. 1958.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa as shown in the Annexure, in the Industrial Dispute between the employers in relation to M/s. E. C. Bose & Co. (P) Ltd., Paradip and their workmen.

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
Industrial Dispute Case No. 4 of 1987 (Central)

Dated Bhubaneswar, the 18th June, 1987.

BETWEEN

The Management of M/s. E. C. Bose & Co. (P) Ltd., Stevedores/C & F Agents At P.O. Paradip, Cuttack.

First Party,

AND

Their workmen represented by the Jt. Secretary, Paradip Port & Dock Mazdoor Union, Block D. Room No. 36, Vijaya Market, Badapudia, P.O. Paradip, Distt. Cuttack.

Second Party,

APPEARANCES :

None—For both the Parties.

AWARD

1. The matter arises out of a reference made by the Central Government in the Labour Department in exercise of powers conferred under sub-section (5) of Section 12 read with clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act 1947 in their Order No. L-38011/1/86 dated 5th February, 1987 for adjudication of the dispute and answering the reference. The terms of the reference may be quoted below :—

- “(i) Whether the demand of the employees of M/s. E. C. Bose and Co. (P) Ltd. for payment of House Rent Allowance is justified? If so, what should be the quantum of the H.R.A. per month?
- “(ii) Whether the demand of the employees of M/s. E. C. Bose and Co. (P) Ltd. for extending medical facilities to all the employees and their family members is justified? If so what should be the nature of such facilities?
- “(iii) Whether the demand of the workmen of M/s. E. C. Bose & Co. (P) Ltd. for payment of ex-gratia in lieu of bonus to all the employees is justified? If so, what should be the quantum of ex-gratia payments and from what date?”

2. The Union which has raised this dispute did not take any steps to file any statement of claims inspite of due service of notices. In view of the non-appearance of the Union, it can safely be inferred that no dispute subsists between the parties. Hence a no dispute Award is passed, so far as this reference is concerned.

18-6-1987.

R. N. PANDA, Presiding Officer.
[No. L-38011/1/86-D.IV(A)]

का. प्रा. 1959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, युनाइटेड इंडिया इन्श्योरेंस कं. लि. बंगलूर के प्रबंधन से सम्बद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पचाट को प्रकाशित करने है, जो केन्द्रीय सरकार का 7 जुलाई, 1987 को प्राप्त हुआ था।

S.O. 1959.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the United Insurance Co. Ld., Bangalore and their workmen which was received by the Central Government on the 7th July, 1987.

BEFORE THE CENTRAL INDUSTRIAL TRIBUNAL AT BANGALORE

Dated the 15th day of June, 1987.

PRESENT :

Shri B. N. Lalge, B.A. (Hons.), LL.B.,—Presiding Officer.

Central Reference No. 100/87.

I Party :

Joint Secretary, GIC Employees Union, Southern Zone, C/o New India—Assurance Company Ltd., Unity Buildings, Annexe Mission Road, Bangalore-27.

Vs

II Party :

The Regional Manager, United Insurance Company Ltd., I Floor, Shankaranarayana Building, 25, M. G. Road, Bangalore-560001.

APPEARANCES :

For the I Party—Joint Secretary of the Union.
For the II Party :

AWARD

The Government of India by its Order No. L-17012/26/86-D IV(A) dated : 1-5-1987 made the present reference on the following points of disputes :

POINTS OF DISPUTE.

“Whether the action of the management of United India Insurance Company is justified in terminating the services of Miss. N. Mangala, Typist. Rajainagar Branch.

Bangalore w.e.f. 2-3-1986 ? If not, to what relief the workman concerned is entitled ?

2. Before the matter came up for hearing, the Joint Secretary of the GIC Employees Union filed a memo seeking permission to withdraw the reference on the ground that the employee Miss. N. Mangala has been appointed w.e.f. 6-1-1987, and that she has been working. The prayer has been allowed and the reference is closed, for the reason that it has been withdrawn.

B. N. LALGE, Presiding Officer

[N. L-17012/26/86-D. IV(A)]

का आ 1960—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये, केन्द्रीय सरकार, स्टैंडर्ड चार्टर्ड बैंक, बंबई के प्रबंधन से सम्बन्धित विवादों और उनके कर्मचारियों के बीच, अनुबंध से निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण से - 1, बंबई के पंचाट का प्रकाशित करती है, जो केन्द्रीय सरकार को 3 जुलाई, 1987 को प्राप्त हुआ था।

S.O. 1960.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, No. 1, Bombay, as shown in the Annexure, in the industrial dispute between the employers in relation to the Standard Chartered Bank, Bombay and their workman, which was received by the Central Government on the 3rd July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

REFERENCE NO. CGIT-24 OF 1986

PARTIES :—Employers in relation to Standard Chartered Bank Bombay

AND

their workmen.

APPEARANCES :—

For the Employer.—Mrs. Sarang, Advocate

For the Workman.—Miss D'Souza, Advocate

INDUSTRY.—Banking

STATE.—Maharashtra

Bombay, dated the 12th day of March, 1987

AWARD

The dispute referred to this Tribunal relates to the dismissal from service of the workman, Shri B. K. Sanil, who was working as a Machinist-Clerk in the Bombay Main Branch of the Standard Chartered Bank.

2. Shri Sanil obtained privilege leave from 20th December 1982 to 18th January, 1983 and went abroad. He was expected to resume duty on 19th January, 1983 after the expiry of his leave. But, on his way to London, he was detained at Frankfurt by the West German authorities, because his companion was found carrying Hashish with him and subsequently both were prosecuted. He, therefore, wrote to the Chief Accountant of the Bank explaining the

circumstances in which he was detained and assuring the management that he would rejoin his duty as soon as he was freed. He requested the Chief Accountant to grant him leave and pardon his absence. According to the bank, this letter was received on 21st March, 1983. Meanwhile, as the workman did not join his duty on the expiry of leave, the Accounts Branch addressed a letter to the workman advising him to join his duty on the expiry of leave. As there was no response from the workman, the accounts Branch wrote him again on 4th March, 1983 (Ex-M-1) calling upon him to resume duty within 7 days from the receipt of the said letter and informing him that if he failed to do so, disciplinary action against him would be taken under the provisions of the Bipartite settlement. He was also informed that in the meantime, his absence was being treated as without leave and without pay. Both these letters were sent to the workman's local address at Bombay. Both these letters were received by the workman's wife, who by her letter dated 18th March, 1983 (Ex-M-8) informed the Bank that her husband was out of India and as per her knowledge he was not well, but was likely to return after about 3 weeks.

3. As there was no further communication from Shri Sanil, a departmental enquiry was instituted against the workman and the Accountant Shri P. J. Appanna was appointed Enquiry Officer. The charges levelled against the workman were "engaging in trade outside the scope of duties resulting in overstaying the sanctioned leave constituting a gross misconduct in terms of clauses 19.5(a) read with 19.7(a) of the Bipartite Settlement." The workman was accordingly informed and in reply to the said letter, the workman's wife, who had received that letter, wrote a letter dated 22nd August, 1983 (Ex-M-9), requesting the Accountant, Shri Appanna to defer the action against her husband till his trial by the West German Court was completed. Along with that letter, she forwarded a copy of the letter received by her brother from the lawyer who was defending the workman in the West German Court. This request was turned down and hence the workman's wife, by her letter dated 23rd August, 1983 (Ex-M-11) informed the Secretary of the Chartered Bank Employees Union that her husband would not be able to attend personally the enquiry fixed on 25th August, 1983 and authorised the union to represent her husband at the enquiry. Accordingly, the President and the Secretary of the union appeared on behalf of the workman at the enquiry which was held on 25th August, 1983 and 12th September 1983.

4. The enquiry officer on the basis of the documentary evidence produced before him found the workman guilty of misconducts under clauses 19.5(a) and 19.7(a) of the Bipartite Settlement and ruled that the workman be dismissed without notice under para 19.6(a) of the Bipartite Settlement. This order was communicated to the workman by the enquiry officer himself in his capacity as the Accountant vide his letter dated 13th September, 1983 (Ex-M-12). It appears that after the workman received this dismissal order through his wife, he addressed a letter dated 12th October, 1983 (Ex-M-13)

to the Manager, of the Bank for reviewing the disciplinary proceedings held against him by the enquiry officer. The Manager vide his letter (Ex-M-7) dated 23rd December, 1983 informed the workman that he saw no reason to disagree with the findings of the enquiry officer and the resultant order passed against the workman.

5. The trial held in the West German Court against the workman came to an end on 9th January, 1984 and admittedly, he was honourably acquitted by the West German Court. The workman then returned to India in or about January, 1984 and requested the Bank to reinstate him in service. The Bank refused to accede to the demand and hence the workman raised a dispute which was admitted in conciliation. The conciliation proceedings failed and thereafter, the Central Government referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of Standard Chartered Bank in relation to its Bombay Main Branch in the dismissal of Shri B. K. Sanil, a clerk, from the services of the Bank w.e.f. 12th September, 1983 is justified? If not to what relief the workman concerned is entitled?"

6. Admittedly, enquiry was held in the absence of the workman who was detained in West German Jail, pending his trial by a court in that country. The fact that he was detained by the West German authorities was brought by the workman to the notice of the Chief Accountant by his letter dated 22nd February, 1983, which according to the management was received on 21st March, 1983 long before the departmental proceedings were instituted and knowing fully well that the workman was detained at Frankfurt in West Germany for trial, the management went ahead with the departmental enquiry which was fixed on 25th August, 1983. This letter was also sent at the workman's local address at Bombay. On receiving this letter, the workman's wife by her letter dated 22nd August, 1983 (Ex-M-9) requested the enquiry officer to defer the action contemplated by the management till her husband's trial was over. She also further informed the Enquiry Officer, Shri Appanna as follows :—

"I beg to state that Shri B. K. Sanil is still in the Detention Camp at Frankfurt, West Germany as his trial has not yet started. It is fact that nothing incriminating has been found in the baggage of my husband and he is being detained only on suspicion because he happened to travel with his friend who turned out to be a criminal. Trial of my husband is likely to be in the month of October, 1983 as per the letter received from his lawyer from Germany by my brother Shri Shridhar D. Salian. A copy of the letter is enclosed for your reference. The lawyer wants my brother to appear as a defence witness as he had been to the Airport to see my husband off and has watched the checking in."

7. A copy of the letter written by the workman's lawyer to Shri Salian is at Exhibit M-10. In that letter, the lawyer who appeared for the workman in the West German Court had specifically mentioned that the trial against Mr. Sanil would be held in October, 1983. There was therefore, no justification for going ahead with the departmental enquiry.

8. It is true that the President and the Secretary of the Chartered Bank Employees Union appeared for the workman in the departmental enquiry, but that was not at the instance of the workman himself, but at the request of the workman's wife, who obviously must have become panicky on finding that the management was not prepared to postpone the enquiry till her husband's trial in West German Court was over. It will also be seen from the enquiry papers that the union office bearers did not do anything except requesting the enquiry officer to postpone the enquiry upto October, 1983, the probable date when the trial of the workman was to open. The attitude of the Enquiry Officer in refusing to postpone the enquiry was absolutely unreasonable and resulted in denial of proper opportunity to the workman to defend himself. The letter received by Shri Salian from the workman's advocate clearly showed that the Lawyer expected the trial to commence in October, 1983.

9. Shri Rele, the learned advocate for the bank contended that there was no obligation on the management to issue a charge-sheet and to hold an enquiry and that the management could have terminated the services of the workman for overstaying the sanctioned leave. In support of this proposition, reliance is sought to be placed on the decision of the Supreme Court in *Burn & Co. Ltd. and its employees* (1957) 1 LLJ p. 226). In that case one of the employees by name Ashimananda Banerjee was arrested by the Government under the West Bengal Security Act and detained in Jail from 25th January, 49 to 5th April, 1951. The Company terminated his services on 22nd April, 1949. The Tribunal made an order that he should be re-employed. That order was not challenged by the management. But the workman claimed that he was entitled to be reinstated and that his claim was accepted by the Appellate Tribunal, on the ground that the workman was discharged without the company framing a charge or holding an enquiry and that the rules of natural justice had been violated. Their Lordships of the Supreme Court disagreed with the decision and held that the order of the Appellate Tribunal was manifestly erroneous and deserved to be set aside. Their Lordship gave the following reasons for setting aside the order of the Appellate Tribunal.

"The ground of discharge is the continued absence of the employee, and his inability to do work, and it is difficult to see what purpose would be served by a formal charge being delivered to him and what conceivable answer he could give thereto."

10. Another decision on which Shri Rele placed reliance in support of his proposition is the one in the case between Indian Iron & Steel Company Ltd. and another and Their workmen (1958-1-LLJ-p. 260). In that case, some of the workmen who were taken in the police custody in connection with criminal prosecution against them, applied for leave which was refused by the management. The services of such workmen were terminated for remaining absent without permission for 14 consecutive days. The Industrial Tribunal and the Appellate Tribunal held that absence of the workmen was justified. In appeal, the Supreme Court applied the same principle which was laid down in Burn & Co. Ltd. and their employees (citation supra). Shri Rele laid particular emphasis on the following observation made by Their Lordship in setting aside the order of the two Tribunals.

"It is true that the arrested men were not in a position to come to their work, because they had been arrested by the police. This may be unfortunate for them; but it would be unjust to hold that in such circumstances the company must always give leave when an application for leave is made. If a large number of workmen are arrested by the authorities in charge of law and order by reason of their questionable activities in connection with a labour dispute (as in this case), the work of the company will be paralysed if the company is forced to give leave to all of them for a more or less indefinite period. Such a principle will not be just; nor will it restore harmony between labour and capital or ensure normal flow of production. It is immaterial whether the charges on which the workman arrested by the police are ultimately proved or not in a court of law. The company must carry on its work and may find it impossible to do if a large number of workmen are absent. Whether in such circumstances leave should be granted or not must be left to the discretion of the employer."

11. It is however, pertinent to note that Their Lordship upheld the action of the management in refusing the leave in the context of the fact that a large body of workers who were arrested by the authorities, by reason of their questionable activity in connection, with a labour dispute, had asked for leave, for a more or less indefinite period, thus paralysing the work of the company. Their Lordships did not hold that absence of a workman on account of his arrest by the Police can never be a valid ground for granting leave and the management would always be justified in refusing leave in such cases. What Their Lordship held is that whether in such circumstances leave should be granted or not must be left to the discretion of the employer. It will therefore, always be open to the workman to point out that exercise of the discretion by the management was arbitrary and unreasonable. Moreover, that was a case in which there was a provision in the Standing Orders of the company which empowered the management to dismiss a workmen for absence

beyond 14 consecutive days without permission. It is in exercise of this power that the workers in that case were discharged. There is no such provision in the Bipartite Settlement, by which the Bank employees are governed. Absence without leave or overstaying the sanctioned leave without sufficient ground is considered as a minor misconduct and no punishment, even for a misconduct can be inflicted on the workman, without following the procedure prescribed in para 19.12 of the First Bipartite Settlement dated 19-10-1966. Hence, even in respect of the charge of overstaying sanctioned leave, an enquiry was necessary.

12. It is also pertinent to note that even after holding an enquiry in respect of the charge of overstaying sanctioned leave, the management could not have either dismissed or discharged the workman, because as mentioned above, absence without leave or overstaying the sanctioned leave without sufficient grounds is one of the minor misconduct which are enumerated in para 19.7 of the First Bipartite Settlement, for which punishment is prescribed in para 19.8. As laid down in the said provision, an employee found guilty of minor misconduct may—(a) be warned or censured; (b) have adverse remark entered against him; and (c) have his increment stopped for a period not longer than six months. No other punishment, much less dismissal or discharge can be inflicted on a workman who is found guilty of a minor misconduct. The Bank, therefore could not have dismissed or discharged the workman in this case, for the misconduct of overstaying the sanctioned leave, apart from the fact that his unjustified detention in West German prison can be considered to be a sufficient ground which prevented him from reporting for duty on the expiry of his leave.

13. No evidence was led by the management to prove the misconduct of engaging in trade outside the scope of duties. The management preferred to rely on the documentary evidence produced on record and stated in writing that it did not want to lead any oral evidence to prove the charge. The only document on which the charge is based and reliance is placed in proof of that charge is that letter (Exhibit M-4) dated 22nd February, 1983 written by the workman from the West German jail. According to the management, this letter contains a specific admission that the workman was engaging in business while in the service of the Bank. This is what the workman informed the Chief Accountant by his aforesaid letter Exhibit M-4 —

"I have to inform you that I had taken one month's leave starting from 20th December 1982, with a view of visiting Europe on holiday-cum-exploring market for export business."

14. Except this statement, there is absolutely no other evidence to show that the workman was actually engaged in carrying on any business while in the service of the Bank.

15. The misconduct complained of is one falling under Clause (a) of para 19.5 of the First Bipartite Settlement. In this para, gross misconducts are enumerated and clause (a) of the said paragraph reads as follows :—

“(a) engaging in any trade or business outside the scope of his duties except with the written permission of the bank,”

16. Mrs. D'souza, the learned advocate for the workman contended and in my view rightly that merely exploring foreign market for export business does not necessarily amount to engaging to trade or business. The workman was on leave and perhaps wanted to utilise his visit to Europe for exploring market for export business. If perhaps he would have found that there was good scope for export business, he would have embarked upon the adventure and in that event and only then, he could have been said to have engaged in business. He did not reach that stage. In fact, he had not even decided to start an export business, much less made preparations for it. He would have been guilty of the misconduct complained of only if he had actually commenced the business. Merely exploring market for export business cannot be, by any stretch of imagination, deemed to be engaging in business. There is absolutely nothing else on record to show that he had already started an export business. He could have started such a business while in service and it is only then that conduct would have attracted clause (a) of para 19(5) of the Bipartite Settlement. If he would have found that there was good scope for export business, he would have left the employment and started such a business. At any rate, till he embarked on such a business, there was no question of engaging in any trade or business while in service. Thus, the charge for grave misconduct of engaging in trade outside the scope of his duties must fail. As observed by me above, the workman could not have been dismissed or discharged for the minor misconduct of overstaying leave. In the result therefore, the dismissal of the workman from service must be quashed.

17. It was vehemently urged on behalf of the Bank that the workman should not be reinstated because the Bnk has lost confidence in him. There is no substance in this submission because there was no plausible and valid reason for the Bank to lose confidence in the workman. Overstaying sanctioned leave on account of unjustified detention in a foreign land can not be a cause for loss of confidence. Moreover, even though the workman was detained by West German authorities on suspicion that he was engaged in smuggling of Hashish, he was honourably acquitted by the West German Court, as nothing incriminating was admittedly found in his possession. The workman therefore, can not be suspected to be engaged in nefarious activities and hence the bank can have no reason for losing confidence in him. The relief of reinstatement which must ordinarily follow quashing of the dismissal order, must be given to the workman.

18. The workman will also be entitled to back-wages, except for the period during which he was detained in West German prison and till he returned to India. Admittedly, the workman returned to India sometime in January, 1984, after he was quitted by the West German Court. He could not have, therefore, attended his duty till the end of January,

1984, even if no departmental enquiry would have been instituted against him. Hence the period till the end of January, 1984 will have to be treated as leave without pay and the workman would not be entitled to be compensated for that period.

19. In the result, it is declared that the action of the management of the Standard Chartered Bank in relation to its Bombay Main Branch in the dismissal of Shri B. K. Sanil, with effect from 12th September, 1983 was absolutely unjustified and illegal. Consequently, the management of Standard Chartered Bank is directed to reinstate the workman, Shri B. K. Sanil with immediate effect with continuity of service and to pay him backwages with all incidental service benefits from 1st February, 1984 till the date of actual reinstatement within one month from the publication of this award.

20. Award accordingly.

M. S. JAMDAR, Presiding Officer

[No. I-12012/3/86-D.IV(A)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 23 जुलाई, 1987

का. घा 1961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुकरण में, केन्द्रीय सरकार, भारतीय खाद्य निगम पञ्जाब के प्रबंधन में सम्बद्ध निरोक्ता और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पत्राट को प्रकाशित करना है, जो केन्द्रीय सरकार का 6 जुलाई, 1987 को प्राप्त हुआ था।

New Delhi, the 23rd July, 1987

S.O. 1961.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Chandigarh, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Punjab and their workmen, which was received by the Central Government on the 6th July, 1987.

BEFORE SHRI M. K. BANSAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 64/85.

PARTIES :

Employers in relation to the management of Food Corporation of India, Punjab.

AND

Their workman : Gulzar Singh.

APPEARANCES :

For the workman : Shri O. P. Mehta.

For the employers : Shri M. P. Vasudeva.

AWARD

Central Government vide Notification No. L-42012 (40)/84-D.V. dated 30-3-1985 issued under Section 10(1)(d) of the Industrial Disputes Act 1947,

referred to this Tribunal for decision the following dispute.

"Whether the action of the management of Food Corporation of India, in terminating the services of Shri Gulzar Singh, Ex-watchman is just and legal? If no, to what relief is the workman entitled to and from what date?"

2. The case of the workman is that he was working with the FCI at Jagroan on daily wages @12-40 paise per day. That he has worked for more than one year continuously without any break in service against permanent post. That services of the workman have been terminated on 2-5-83 without payment of any retrenchment compensation. That in place of workman some other person as watchman have been recruited. So it was alleged that termination of his service is bad. He claimed reinstatement with back wages.

3. The management in their reply alleged that reference is not tenable being illegal. That workman has not worked with FCI. That his claim is liable to be dismissed. In support of their respective allegation both the parties placed affidavit and some documents were placed.

4. Workman also appeared as WW1. He stated in cross-examination that Home Guard is not his parent department. That he was directly recruited and was not on loan with FCI. There was no cross-examination on the workman to show that he never worked with FCI for about 240 days during one calendar year.

5. FCI examine Shri C. K. Oberoi Asstt. Manager who proved his affidavit M1. In the same it was stated that workman was the employee of Home Guard and taken on loan to guard the property of the FCI store in open. That in 1982 the policy of storing the goods in the open was done away with. That workman was reverted to his parent department. That workman has worked for 199 days from April 1982 to December 1982 and for 88 days from January 1983 to May 1983. In cross-examination this witness admitted that as service of the workman were not terminated by FCI, so question of retrenchment compensation does not arise.

6. Representative of the management contended before me that as workman was on deputation with the FCI so he was not entitled to retrenchment compensation. I am of the view that this argument is not correct. This plea was not specifically raised in reply. The workman had stated that he was never employed in the Home Guard. That he was directly recruited by the FCI. But the FCI to prove the above fact placed reliance on the affidavit as well as letter alleged to be received by the FCI from one Rakinder Singh where he said that persons detailed in the list are being sent for guarding the stock of FCI. Even if this letter is admitted as correct it will show that member of Home Guard were sent to FCI to guard their stock. These persons were paid by

the FCI. FCI used to mark their attendance. Control over them was of FCI. So they become employees of the FCI for all intents and purposes.

7. On behalf of the workman 1986 (i) SLR 641 Food Corporation of India vs. Presiding Officer Industrial Tribunal (Central Govt.) Chandigarh another authority of Punjab & Haryana High Court has been cited. In the above authority workman who were member of the Home Guard, came to FCI to guard their stock. Their services were terminated. Question arose whether they have a right to get their services regularised or not. In the High Court the matter was decided on the basis of concessions made by counsel for FCI wherein he agreed that services will only be terminated by the management in accordance with law and for all intents and purposes they will be treated at par with regular employees (watchman of the Corporation).

8. The second authority is of CWP No. 843/85 decided on 8-5-1985 by our own High Court in case Re : FCI vs. Presiding Officer Industrial Tribunal cum Labour Court (Central) Sector-17, Chandigarh. In the above case also workmen were member of Home Guard and were on deputation with the Corporation. It was held by Their Lordships that question whether services of workmen could be terminated without payment of compensation is a debatable point and this point can only be decided in reference. As in the present case there was no reference so that point was not gone into. The above two cases shows that workmen were employees of the FCI.

9. Now the next point to be determined is whether he worked for 240 days in one calendar year or not? It is admitted that employees worked with the FCI from April 1982 to May 1983 for total number of 287 days. The question to be determined is whether from April 1982 to March 1983 the worker worked for 240 days or not. This fact could have been proved by the FCI by producing their attendance register, by producing wage payment register to show that wages paid to the above worker for the actual working days was less than 240 days. In the absence of the above record being produced, a presumption will be drawn that the above person worked with the FCI for 240 days during the period from 1-4-1982 to 31-3-1983. It will also show from 1-4-1982 to become regular employee of the FCI. As their services were terminated without payment of any retrenchment compensation so termination is void.

10. As a result of my above finding it is held that termination of the services of the workman vide order dated 2-5-1983 is void. Workman is entitled to re-instatement in service with continuity in service and back wages. Accordingly the reference is answered in favour of the workman.

Chandigarh.

23-6-87.

M. K. BANSAL, Presiding Officer

[No. L-42012/40/84-D.V]

HARI SINGH, Desk Officer

